Congo, Democratic Republic of

The DRC is not a regional financial center, although its porous borders, lack of a financially sound, well-regulated banking sector and functional judicial system, and inadequate enforcement resources make it susceptible to money laundering. Money laundering in the Congo more than likely involves smuggling proceeds, mostly from illicit diamond sales as smuggling is a widespread crime in the DRC. Money laundering also occurs through the Banque Congolaise and its associated exchange houses. Most economic activity in the Congo takes place in the informal sector. In 2000, the informal sector was estimated to be at least four times the size of the formal sector. Most transactions, even those of legitimate businesses, are carried out in cash.

Although, there is currently no law in the Congo criminalizing money laundering, the World Bank and Central Bank are in the process of drafting a bill to criminalize money laundering, as an IMF condition, for adoption by the DRC in the near term. Banks and nonbanking financial institutions are required to report all transactions over $10,000, which banks find burdensome, as 90 percent of transactions using the banking system meet this threshold. There are no legal restrictions in the Congo prohibiting the sharing of financial account information with foreign authorities.

While there is no law criminalizing terrorist financing, both the President and the courts have the legal authority to freeze assets of terrorist organizations. The DRC has not criminalized terrorist financing as required by Security Council Resolution 1373.

The Congo has signed, but not yet ratified, both the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. The Congo has reached agreement with U.S. authorities on a mechanism for exchanging records in connection with serious crime investigations.

The GDRC should criminalize money laundering and terrorist financing and develop a viable anti-money laundering regime. GDRC should become party to both the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention.

Congo, Republic of

Congo is not a regional financial center, and money laundering is not thought to be a problem. The Bank of Central African States (BEAC) supervises Congo's banking system, which is still recovering from the looting and neglect it received during Congo's civil unrest in the 1990s. BEAC is a regional Central Bank that serves six countries of Central Africa.

During 2003, Congo-Brazzaville strengthened its laws against money laundering. As a member of the Central African Regional Monetary Union (CEMAC), it adopted CEMAC's new April 2003 regional regulations for prevention and repression of money laundering and financing of terrorism in central Africa. These rules establish penalties of both fines and imprisonment for money laundering and financing of terrorism. They also regulate the operations of banks, money changers and casinos.

Export and import of CFA franc bank notes, the regional currency, is prohibited outside the CFA franc zone. Travelers may not enter or leave the country with more than 980001 CFA (approximately $1,856) in local currency. In addition, Congo-Brazzaville requires that foreign transfer of more than 489472 CFA (approximately $927) in local currency must receive prior approval of banking regulators. It also just held its first "national day to combat corruption and fraud," a country-wide day to focus on these issues convened by the Minister of Government Coordination where it was highlighted that the President would not tolerate any forms of corruption, fraud, or illicit enrichment.

Congo has signed, but not yet ratified, both the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. Congo should continue to work with the BEAC to strengthen its anti-money laundering and counterterrorist

financing efforts in the region. Congo should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and to the UN Convention against Transnational Organized Crime

Cook Islands

The Cook Islands is a self-governing group of islands in the South Pacific that maintains a free association with New Zealand. Cook Islanders are citizens of New Zealand and are part of the British Commonwealth. The Cook Islands passed nine new legislative acts on May 7, 2003, to strengthen the country in its struggle against money laundering. The pieces of legislation that were amended and created were: the Crimes Amendment Act 2003, the Criminal Procedure Amendment Act 2003, Proceeds of Crime Act 2003, Mutual Assistance in Criminal Matters Act 2003, Extradition Act 2003, Financial Transactions Reporting Act 2003 (repeals and replaces the Money Laundering Prevention Act 2000), Financial Supervisory Commission Act 2003 (repeals and replaces the Offshore Financial Services Act 1998), Banking Act 2003 (repeals and replaces the Banking Act 1989), and the International Companies Amendment Act 2003.

Although, the Government of the Cook Islands (GOCI) has enacted several legislative reforms to address the deficiencies identified by the Financial Action Task Force (FATF), it continues to remain on the FATF list of noncooperative countries and territories (NCCT) in the fight against money laundering. The FATF, in its June 2000 report, cited several concerns. In particular, the GOCI has no relevant information on approximately 1,200 international companies it has registered. The country also licenses seven offshore banks that take deposits from the public, yet were not required to identify customers, nor keep records. Excessive secrecy provisions guard against the disclosure of bank records and relevant information about the international companies. A U.S. Treasury Department advisory to U.S. financial institutions, warning them to give enhanced scrutiny to all financial transactions originating in, or routed to or through, the Cook Islands remains in force.

The Cook Islands Financial Intelligence Unit (CIFIU) became legally established pursuant to Section 20 of the Financial Transaction Reporting Act 2003 (FTRA 2003). The CIFIU is fully operational, with the assistance of a technical advisor provided by the Government of New Zealand. The FIU is the central unit responsible for processing disclosures of financial information in the framework of anti-money laundering and antiterrorist financing regulation. CIFIU receives suspicious transactions reports and currency transaction reports, as well as being informed of telegraphic transfers over NZD$10,000. If the financial intelligence unit suspects a serious offense, money laundering offense or otherwise, has been, or is being committed, the FIU must refer the matter to the police for investigation. CFIU has the power to request information from any law enforcement agency and supervisory body for the purposes of FTRA 2003. The FIU is required to destroy a suspicious transaction report received or collected, if six years has passed since the date of receipt of the report, if there has not been activity or information relating to the report or the person named in the report or if six years has passed since the date of the last activity relating to the person or to the report. The type of institutions that are supposed to report to the FIU are banks, insurers, financial advisors, bureaux de change, solicitors/attorneys, accountants, financial regulators, casinos, lotteries, money remitters, and pawn shops.

The Financial Transactions Reporting Act 2003 (FTRA 2003) imposes certain reporting obligations on, but not limited to, financial institutions such as banks, offshore banking businesses, offshore insurance businesses, casinos, and gambling services. Financial institutions are required to make currency transaction reports and suspicious transaction reports. Financial institutions are required to maintain, for a minimum of six years, all records related to the opening of accounts and to business transactions. The records must include sufficient documentary evidence to prove the identity of the customer. In addition, financial institutions are required to develop and apply internal policies,

procedures, and controls to combat money laundering, and to develop audit functions to evaluate such policies, procedures, and controls. Financial institutions must comply with any guidelines and training requirements issued under the FTRA 2003.

The Banking Act 2003 and the Financial Supervisory Commission Act 2003 (FSCA 2003) establish a new framework for licensing and prudential supervision of domestic and offshore financial institutions in the Cook Islands. The FSCA requires all banks to reapply for a license within 12 months of the commencement of the FSCA (i.e., by May 2004), and establishes a "physical presence" requirement. This requirement will assure that no shell banks will exist in the Cook Islands by the end of that 12-month period. The CFIU may, with the approval of Cabinet, enter into negotiations, orally or in writing, relating to an agreement or arrangement, with an institution or agency of a foreign state or an international organization. The Cabinet must approve final agreements or arrangements. In regard to disclosure of information to foreign agencies, the FIU may share information with foreign institutions or international organizations that have the powers and duties similar to those of the FIU, on the terms and conditions set out in the agreement or arrangement between the FIU and that foreign state or international organization regarding the exchange of information.

The Cook Islands is Asia/Pacific Group on Money Laundering. The Cook Islands is not a party to the 1988 UN Drug Convention. Nor is it a party to the UN International Convention for the Suppression of the Financing of Terrorism, although it became a signatory to the latter in December 2001. The United Nations (Security Council Resolutions) Bill is currently in Parliament. The Bill will allow the Cook Islands, by way of regulations, to give effect to the Security Council Resolutions concerning threats and breaches of peace and acts of aggression. The GOCI is also finalizing regulations to give effect to UN Security Council Resolution 1373. The New Zealand FIU is currently supporting CFIU's candidacy into the Egmont Group for June 2004.

The GOCI has taken a number of steps toward addressing the deficiencies identified by the FATF. Recent reforms address most of the deficiencies in Cook Islands' anti-money laundering regime; however, the government must finalize and promulgate the necessary regulations to bring the legislation into full force its anti-money laundering program so that its regime comports with international standards The GOCI must also ensure that the recently enacted reforms are fully and effectively implemented. For example, all shell banks should be eliminated by June 2004, as required under the new Banking Act. Additionally, the GOCI should become a party to the 1988 UN Drug Convention and to the UN International Convention for the Suppression of the Financing of Terrorism. It should also enact legislation that criminalizes terrorism and the financing of terrorism.

Costa Rica

Costa Rica remains vulnerable to money laundering and other financial crimes, due to the narcotics trafficking in the region. Costa Rica is a haven for Internet gaming companies. Despite 2002 reforms of the Costa Rican counternarcotics law to expand the scope of anti-money laundering regulations, the government's licensing and supervision of the offshore sector and nonbank financial institutions remain inadequate. Gambling is legal in Costa Rica, although the currency that is subject to Internet gaming operations may not be transferred to Costa Rica. Consequently, over 100 sports book companies operate in Costa Rica by paying administrative costs locally and accepting bets to accounts located outside of Costa Rica.

Low taxes and strong secrecy laws have created an offshore sector in Costa Rica that offers banking, corporate, and trust formation services. These foreign-domiciled "offshore" banks can only conduct transactions under a service contract with a domestic bank, and they do not engage directly in financial operations in Costa Rica. Instead, these banks receive or transfer funds in foreign currency, generally using correspondent accounts in other countries, thus avoiding most of the financial rules and laws of Costa Rica. Currently, eight offshore banks maintain correspondent operations in Costa Rica,

including three from the Bahamas, three from Panama, one from the Cayman Islands and one from Montserrat. In all cases save the Cayman Islands, the Government of Costa Rica (GOCR) has signed supervision agreements with its counterparts, permitting the review of correspondent banking operations. Costa Rican authorities admit that these agreements are restricted and prevent, for example, the review of current liabilities in the Bahamas.

The licensing procedure for foreign-domiciled banks remains inadequate. The Central Bank approves applications for foreign-domiciled banks to operate in Costa Rica by relying on a foreign jurisdiction's certificate of good standing. Foreign-domiciled banks are required only to provide monthly balance statements and year-end audits to the General Superintendent of the Financial System (SUGEF). In 2003, SUGEF reviewed the operations of all seven offshore banks in countries where a supervision agreement exists. However, SUGEF only has authority over the domestic activity of these foreign-domiciled banks. All other activity of the offshore banks is beyond SUGEF supervision.

Evidence of black market Colombian peso exchange through private banks in Costa Rica declined dramatically in 2003. These exchange schemes permitted the transfer of $225 million between April 2002 and December 2002 by Colombian international credit card holders and currency exchange houses who carried large sums of declared currency (often between $100,000 and $300,000) to Costa Rican banks. The U.S. dollars were transferred to U.S. banks and then to Colombian banks, where account holders profit from arbitrage exchange rates. The flow of money to Costa Rica dropped to approximately $40 million in 2003. Since August, the flow of money via couriers has slowed to a trickle. It is not yet known if the capital flow has shifted to other countries or if different transaction schemes are being used in Costa Rica.

In January 2002, Costa Rica expanded the scope of Law 7786 via Law 8204 to criminalize the laundering of proceeds from all serious crimes. The newly expanded law nominally obligates domestic financial institutions (not offshore banks) and other businesses (such as money exchangers) to identify their clients, report currency transactions over $10,000, report suspicious transactions, keep financial records for at least five years, and identify the beneficial owners of accounts and transacted funds. While law 8204, in theory, covers the movement of all capital, current regulations based on 8204, Chapter IV, Article 14, apply a restrictive interpretation that covers only those entities involved in the transfer of funds as a primary business purpose. The 2002 law does not cover casinos, jewelry dealers or Internet gambling operations whose primary business is not the transfer of funds. The reforms to Law 7786 do not grant SUGEF the authority to conduct on-site money laundering inspections or to incorporate money laundering compliance testing into the inspections it does conduct, such as the prudential safety and soundness inspections that are carried out under Law 7558. Costa Rica has yet to prosecute anyone successfully under its anti-money laundering law.

Costa Rica's financial intelligence unit (FIU), the Centro de Inteligencia Conjunto Antidrogas/Unidad de Analisis Financiero (CICAD/UAF), became operational in 1998 and was admitted into the Egmont Group of FIUs in May 1999. Despite commitment and expertise, the FIU is ill equipped to handle its current caseload (currently more than 230 cases) and to provide the information needed by investigators. Nevertheless, the unit's analysis of the rotation of currency with no evident means of income led to the arrest in June 2003 of eight suspects in a narcotics distribution case. Another case involved the transfer of capital between Costa Rica, Nicaragua and Guatemala that led to the arrest of six suspected narcotics traffickers in December 2003. The unit has also collaborated with the FBI on a suspected sweepstakes fraud in which the "winners" pay an administrative fee of up to $1,000 to various Costa Rican accounts through wire transfers. A new SUGEF regulation permitting regulatory entities to send incomplete Suspicious Activity Reports back to the drafting bank may reduce the number of inadequate reports and give the FIU better information to analyze.

Costa Rican authorities continue to lack the ability to block, seize, or freeze property without prior judicial approval. Thus, Costa Rica lacks the ability to expeditiously freeze assets connected to terrorists and terrorism.

Regarding terrorism and terrorist financing, Costa Rica has ratified all major antiterrorism conventions. A government interagency Task Force recently completed drafting a comprehensive antiterrorism law with specific terrorist financing provisions. The draft law would expand existing conspiracy laws to include the financing of terrorism. It would also enhance existing narcotics laws by incorporating the prevention of terrorism finance into the mandate of the Costa Rican Drug Institute. The antiterrorism legislation will be introduced during the December 2003 to May 2004 extraordinary session of the Legislative Assembly.

Costa Rica is a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism, and the UN Convention against Transnational Organized Crime. Costa Rica has also signed the OAS Inter-American Convention on Mutual Assistance in Criminal Matters. Costa Rica is a member of the Caribbean Financial Action Task Force (CFATF) and the aforementioned Egmont Group.

Costa Rica needs to improve its supervision of the offshore banking sector located in the country and should extend its anti-money laundering regime to cover the Internet gaming sector and other nonbank financial institutions such as jewelry or gem dealers and casinos. Costa Rica should also criminalize the financing and support of terrorists and terrorism. Greater attention should also be given to the needs of the FIU, which is currently unable to adequately support the needs of law enforcement. These are major deficiencies in Costa Rica's anti-money laundering regime that need to be addressed if the country is to build on the progress it has made in this area.

Côte d'Ivoire

Côte d'Ivoire is an important regional financial center in West Africa. Porous borders, an ongoing armed rebellion, and regional instability contribute to Côte d'Ivoire's vulnerability to money laundering from narcotics trafficking, corruption, and arms-trafficking. Fraud is also a source of laundered funds. Criminal proceeds laundered in Côte d'Ivoire are reportedly derived mostly from regional criminal activity organized chiefly by nationals from Nigeria and the Democratic Republic of the Congo, but increasingly from Ivoirians and some Liberian nationals.

Economic and financial police have noticed an increase in financial crimes related to credit card theft and foreign bank account fraud, to include suspicious wire transfers of large sums of money involving mainly British and American account holders through use of the Internet. A part of these funds consist of money solicited through West African advanced fee scams. Cross-border trade through Cote d'Ivoire's porous borders generate contraband funds that are introduced into the banking system through informal or unregulated money changers.

The Central Bank of West African States (BCEAO), based in Dakar, Senegal, is the Central Bank for the countries in the West African Economic and Monetary Union (WAEMU): Benin, Burkina Faso, Guinea-Bissau, Cote d'Ivoire, Mali, Niger, Senegal, and Togo, all of which use the French-backed CFA franc currency. All bank deposits over approximately $7,700 made in BCEAO member countries must be reported to the BCEAO, along with customer identification information. Cote d'Ivoire's economy accounts for 40 percent of the GDP of the WAEMU region. In September 2002, the WAEMU Council of Ministers, which oversees the BCEAO, approved an anti-money laundering regulation applicable to banks and other financial institutions, casinos, travel agencies, art dealers, gem dealers, accountants, attorneys, and real estate agents. The regulation is subject to review by member countries, which would be responsible for implementing many provisions of the regulation.

Under the WAEMU regulation, financial institutions would be required to verify and record the identity of their customers before establishing any business relationship. The regulation would require financial institutions to maintain customer identification and transaction records for ten years. The regulation would also impose certain customer identification and record maintenance requirements on casinos.

All financial institutions, businesses, and professionals under the scope of the WAEMU regulation would be required to report suspicious transactions. The regulation calls for each member country to establish a National Office for Financial Information Process (CENTIF), which would be responsible for collecting suspicious transactions and would have the authority to share information with other CENTIFs within the WAEMU as well as with the financial intelligence units of non-WAEMU countries.

The WAEMU Council of Ministers issued another directive in September 2002 requesting member countries to pass legislation requiring banks to freeze the accounts of any individuals or entities on the UN 1267 Sanctions Committee's consolidated list. Currently, Côte d'Ivoire does not have a specific law authorizing the identity, freezing and seizing of terrorist assets. While such a law is being prepared, relevant measures and procedures by the BCEAO and their application by bankers and financial institutions substitute for the deficiency of Ivoirian legislation. Under article 42 of the law No.90-589 of July 1990 on banking regulations, criminal assets may be frozen.

Laundering of money related to any criminal activity is a criminal offense. It applies to narcotics-related money laundering as well as to other fraudulent activities and corruption. Banks are required to maintain the records necessary to reconstruct significant transactions through financial institutions. Law enforcement authorities can access these records to investigate financial crimes upon the request of a public prosecutor. There are no mandatory time limits for keeping records. Côte d'Ivoire enacted a banking secrecy law in 1996 that prevents disclosure of client and ownership information, but it does allow the banks to provide information to the court in legal proceedings or criminal cases. Banks are required to adhere to "due diligence" standards.

In 2002, a Saudi national was indicted for money laundering in Côte d'Ivoire in relation to an attempted purchase of a hotel. The case was dropped after high-level political intervention.

Law 97/1997 regulates cross-border transport of currency. When traveling from Côte d'Ivoire to another WAEMU country, Ivorians and expatriate residents must declare the amount of currency being carried out of the country. When traveling from Côte d'Ivoire to a destination other than another WAEMU country, Ivorians and expatriate residents are prohibited from carrying an amount of currency greater than the equivalent of 500,000 CFA francs (approximately $1,000) for tourists, and two million CFA francs (approximately $4,000) for business operators. Carrying currency greater than those thresholds is only permissible with approval from the Department of External Finance of the Ministry of Economy and Finance.

Côte d'Ivoire's asset seizure and forfeiture law applies to both real and personal property, including bank accounts and businesses used as conduits for money laundering. The Government of Cote d'Ivoire (GOCI) is the designated recipient of any narcotics-related asset seizures and forfeitures. The law does not allow for the sharing of assets with other governments. GOCI does not have a specific law against terrorist financing. The GOCI has, however, prepared draft counterterrorism finance legislation specifically targeting money laundering operations. The GOCI is also considering legislative proposals regarding the regulation of alternative remittance systems.

Cote d'Ivoire has demonstrated a willingness to cooperate with the USG in investigating financial or other crimes. Cote d'Ivoire has cooperated with the U.S. embassy security office on occasional investigations. The GOCI has also continued to expand its regional cooperation on money laundering,

working with other ECOWAS member nations on plans to establish, by early 2004, the organization's Intergovernmental Group for Action Against Money Laundering (GIABA).

Côte d'Ivoire is a party to the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. Côte d'Ivoire has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Côte d'Ivoire should criminalize terrorist financing and enact legislation allowing for the freezing and seizing of terrorist assets.

Croatia

With a population of less than five million and a tourism industry serving 6.5 million people each year—Croatia's most lucrative industry—Croatia is neither a regional financial nor a money laundering center. Much of the money laundering that does occur is related to financial crimes such as tax evasion, fraud from privatization schemes, and other business-related fraud, although there has been a recent rise in money laundering cases with drug trafficking via the "Balkan Route" into Western Europe as the predicate crime. The proceeds of narcotics trafficking tend to be converted into real estate and luxury goods.

In 1996, Croatia passed legislation that amended its penal code to criminalize money laundering in all forms related to serious crimes. Croatian law prohibits anonymous accounts. In 1997, Croatia passed its Law on the Prevention of Money Laundering (LPML), requiring banks and nonbank financial institutions to report transactions that exceed approximately $15,000, as well as any cash transactions that seem suspicious. The Parliament approved the new Law on the Prevention of Money Laundering (new LPML) in July 2003. The new law amends the former law to follow the European Union (EU) Directives and include lawyers and notaries as obligated entities subject to reporting requirements. It also incorporates terrorism financing as well as drug smuggling and trafficking in persons, and requires that all cross-border transactions with monetary instruments exceeding $5,000 be reported to the Ured za Sprjecavanje Pranja Novca (Anti-Money Laundering Department or AMLD).

Croatia continued the development of its anti-money laundering regime throughout 2002. The Croatian Parliament enacted a variety of legislation related to the fight against money laundering, such as the Law on Penal Responsibility of Legal Persons, the Law on Suppression of Organized Crime and Corruption, and the Law on Banks, and amended the Law on Legal Proceedings. Aside from cash, Croatian law also covers transactions involving precious metals and stones, as well as other types of monetary instruments and financial paper.

The LPML also authorizes establishment of a financial intelligence unit (FIU), the AMLD, within the Ministry of Finance. Over its five years of existence, the 15-member AMLD has investigated over 840 cases of suspicious transactions, nearly 300 of which have occurred since 2002, and forwarded 170 reports (70 since 2002 alone) on suspicious transactions (STRs) to the authorities; 30 of these reports went to foreign authorities. AMLD has increased the number of STRs released to prosecutors within Croatia by 70 percent. Cooperation with regulators is generally good. The Ministry of Finance requires financial institutions to use specific software to facilitate compliance with reporting requirements. However, cooperation among nonbank institutions, especially bureaux de change is more of a concern among authorities.

In 2000, Croatia's Parliament strengthened the country's penal code to ensure that all those indicted can be charged with the money laundering offense where applicable. Prior to this change, a person could not be charged with money laundering if the predicate offense carried a maximum penalty of fewer than five years in prison. In 2001, the GOC established a National Center for the Prevention of Corruption and Organized Crime within the State Prosecutor's Office. This office has the authority to freeze assets, including securities and real estate, for up to a year. The office also has enhanced powers to seek financial transaction information and to coordinate the investigation of financial crimes.

However, despite efforts, there were only a small number of arrests and prosecutions for money laundering or terrorism financing during 2003. Weak interagency cooperation, the insufficient technical skills of the police and prosecutors, a general lack of knowledge of exactly what constitutes a money laundering offense and how to analyze and deal with complex financial crimes, and a judicial backlog of 1.4 million cases hinder Croatia's anti-money laundering efforts. To date, Croatia has succeeded in getting one conviction for money laundering.

In contrast to money laundering legislation, asset seizure legislation needs strengthening. Croatian legislation provides that with regard to asset seizure, the burden falls on the state to prove that the property of a criminal was purchased with illegal proceeds. There is no civil asset forfeiture provision in Croatian law. In 2003, the AMLD worked with authorities in a EU country to block $3 million in suspected criminal proceeds. Although it has only the one conviction and confiscation up to now, Croatia expects up to six additional convictions by the end of 2004, as there were ten indictments being pursued in mid-2003. There is also no specific legislation regulating the sharing of seized assets with foreign governments.

Croatia has criminalized terrorist financing. In addition, Croatia made various changes in the criminal code during 2003 to provide for implementation of the UN Convention. Authorities have the authority to identify and, with a court order, freeze and seize terrorist finance assets. Law enforcement authorities are able to move quickly to seek the required court order to freeze suspect accounts and assets of those individuals or organizations named by the UN 1267 Sanctions Committee. Croatia has established an interministerial body to evaluate and improve the country's terrorist activity prevention and repression system, and it has been cooperative in circulating all international lists of possible terrorists in the financial system. The AMLD has the authority to freeze assets in the short term very easily and with little basis, but for the long term, the Prosecutor's Office requires either an international instrument or a formal legal request for an asset freeze. This may prove detrimental in the long term, because if Croatia identifies assets of entities that have not been cited by the UN, the Prosecutor's Office will have a difficult time implementing a long term legal freeze. In May 2003, after its own investigation dovetailed with its investigation of individuals on the UN-distributed terrorist list, and in the environment of the related UN Resolutions, AMLD recommended the freezing of two accounts. The Croatian judiciary agreed, and froze the accounts, which allegedly were being used to funnel funds through Croatia to neighboring Bosnia-Herzegovina, and ultimately used to fund al-Qaida activities.

Croatia does not have limitations on providing and exchanging information with international law enforcement on money laundering investigations. Croatian officials advise that under current law, judges can authorize asset sharing with another country. Croatia is party to a number of bilateral agreements on law enforcement cooperation with its neighbors, as well as the Southeastern Europe Cooperative Initiative's Agreement to Prevent and Combat Transborder Crime. The 1902 extradition treaty between the Kingdom of Serbia and the U.S. remains in force and applies to present-day extradition between Croatia and the U.S. However, according to the Croatian Constitution, citizens of Croatia may not be extradited, except to The Hague for the War Crimes Tribunal.

Throughout 2002, Croatia has been actively involved with its Balkan neighbors on law enforcement cooperation, especially in cooperating to fight money laundering, and this included the establishment of a regional working group to address the issue. This working group meets twice yearly. In addition, Croatia is working in concert with Bosnia-Herzegovina to stem cross-border money laundering and smuggling. The joint efforts include the participation by authorities from both countries as well as the use of new technology and computer programs developed specifically for this purpose. With a thousand-mile border between the two countries, and numerous loopholes caused by the jurisdictional irregularities throughout Bosnia and Herzegovina, this is one of Croatia's most important projects.

Croatia also intensified its cooperation with Austria, Germany, Italy, and Slovenia regarding border control and crime. As a member of the Council of Europe's Select Committee of Experts (MONEYVAL), Croatia has participated in mutual evaluations with the other members, both by being evaluated, and by sending experts to evaluate other states' progress. Regionally, Croatia has assisted and supported the creation of anti-money laundering legislation and the establishment of FIUs in Albania, Macedonia, Serbia, and Bosnia and Herzegovina. Croatia is an active member of the Egmont Group and chairs the Outreach Committee.

Croatia ratified the UN International Convention for the Suppression of the Financing of Terrorism on October 1, 2003, and ratified the European Convention on the Suppression of Terrorism in January 2003; it became effective April 16, 2003. Croatia ratified the UN Convention against Transnational Organized Crime in January 2003 and signed the UN Convention Against Corruption in December 2003. Croatia is a party to the 1988 UN Drug Convention, the Council of Europe Convention on Laundering, Search, Seizure and confiscation of the Proceeds from Crime, and the 2000 Palermo Convention on Organized Crime, and in June 2003 signed the European Convention on the Transfer of Proceedings in Criminal Matters and ratified the Council of Europe Civil Law Convention on Corruption.

The GOC should work to improve interagency cooperation on money laundering matters and should provide sufficient resources to law enforcement authorities and the judiciary. The GOC should provide training to improve the technical skills of police investigators, prosecutors, and judges to enable them to deal with complex financial crimes so that money laundering and terrorist financing cases can be successfully prosecuted. The GOC should improve its asset forfeiture regime to enable the freezing and seizing of assets in an efficient and timely manner.

Cuba

The Department of State has designated Cuba as a State Sponsor of Terrorism. Cuba is not an international financial center. The Government of Cuba (GOC) controls all financial institutions, and the Cuban peso is not a freely convertible currency. The Embassy reports no changes for 2003.

The GOC is not known to have prosecuted any money laundering cases since the National Assembly passed legislation in 1999 that criminalized money laundering related to trafficking in drugs, arms, or persons. The Cuban Central Bank has issued regulations that encourage banks to identify their customers, investigate unusual transactions, and identify the source of funds for large transactions. Cuba also has cross-border currency reporting requirements. Cuba has solicited anti-money laundering training assistance from the United Kingdom, Canada, France, and Spain.

Cuba is a party to both the UN International Convention for the Suppression of the Financing of Terrorism and the 1988 UN Drug Convention. Cuba has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

Cuba should criminalize terrorist financing.

Cyprus

The Republic of Cyprus is a major regional financial center with a robust offshore financial services industry, which contributes about five percent of the country's gross domestic product. Like other such centers, it remains vulnerable to international money laundering activities. Fraud and, to some extent, narcotics trafficking are the major sources of illicit proceeds laundered in Cyprus. Offshore casinos or Internet gaming sites are not permitted in the Government of Cyprus (GOC)-controlled area of Cyprus.

The development of the offshore financial sector in Cyprus has been facilitated by the island's central location, a preferential tax regime, double tax treaties with 33 countries (including Eastern European and former Soviet Union nations), a labor force particularly well trained in legal and accounting skills, a sophisticated telecommunications infrastructure, and relatively liberal immigration and visa requirements. In 2003, the GOC significantly revised its corporate and tax laws to eliminate distinctions between domestic and offshore companies. Since January 1, 2003, all companies have been taxed at the same 10 percent rate, eliminating the previous 4.5 percent preferential rate for international business companies (IBCs). Additionally, restrictions were lifted that had prevented IBCs from doing business domestically. The distinction between domestic companies and IBCs will cease entirely in 2006, when a three-year transition period expires. This will effectively end the offshore IBC sector in Cyprus.

Existing offshore banks (numbering 29 in June 2003, with assets of $8.4 billion) will continue to operate as such until January 1, 2006. Once this transition period expires, they will lose their preferential tax treatment and will be permitted to accept deposits from residents of Cyprus. In the meantime, offshore banks are required to adhere to the same legal, administrative, and reporting requirements as domestic banks. The Central Bank requires prospective offshore banks to face a detailed vetting procedure to ensure that only banks from jurisdictions with proper supervision are allowed to operate in Cyprus. Offshore banks must have a physical presence in Cyprus and cannot be brass plate operations (shell banks). Once an offshore bank has registered in Cyprus, it is subject to a yearly on-site inspection by the Central Bank. Following the liberalization of existing exchange controls, international banking units may now accept foreign currency deposits and extend medium- and long-term foreign currency loans to residents. Cyprus does not permit bearer shares.

Over the past eight years, Cyprus has put in place a comprehensive anti-money laundering legal framework that meets international standards. The GOC continues to revise these laws to meet evolving international standards. In 1996, the GOC passed the Prevention and Suppression of Money Laundering Activities Law. This law criminalizes both drug and nondrug-related money laundering, provides for the confiscation of proceeds from serious crimes, codifies actions that banks and nonbank financial institutions must take (including customer identification), and mandates the establishment of a financial intelligence unit (FIU). The anti-money laundering law authorizes criminal (but not civil) seizure and forfeiture of assets. Subsequent amendments to the 1996 law broadened its scope by eliminating the separate list of predicate offenses, addressing government corruption, and facilitating the exchange of financial information with other FIUs, as well as the sharing of assets with other governments. A law passed in 1999 criminalizes counterfeiting bank instruments, such as certificates of deposit and notes.

Amendments passed in 2003 implement the European Union's (EU's) Second Money Laundering Directive. These amendments authorize the FIU to instruct banks to delay or prevent execution of customers' payment orders; extend due diligence and reporting requirement to auditors, tax advisors, accountants, and, in certain cases, attorneys; permit administrative fines of up to $6,390; and increase bank due diligence obligations concerning suspicious transactions and customer identification requirements, subject to supervisory exceptions for specified financial institutions in countries with equivalent requirements. The GOC is currently drafting regulations to supervise real estate agents and dealers in precious metals and gems.

Also in 2003, the GOC enacted new legislation regulating capital and bullion movements, and foreign currency transactions. The new law requires all persons entering or leaving Cyprus to declare currency (whether local or foreign) or gold bullion worth $15,500 or more. This sum is subject to revision by the Central Bank. This law replaces exchange control restrictions under the Exchange Control Law, which expires on May 1, 2004.

The supervisory authorities for the financial sector are the Central Bank of Cyprus, the Securities Commission of the Stock Exchange, the Superintendent of Insurance, and the Superintendent of Cooperative Banks. The supervisory authorities may impose administrative sanctions if the legal entities or persons they supervise fail to meet their obligations as prescribed in Cyprus's anti-money laundering laws and regulations.

All banks must report to the Central Bank, on a monthly basis, individual cash deposits exceeding $21,200 in local currency or $10,000 in foreign currency. Bank employees currently are required to report all suspicious transactions to the bank's compliance officer, who determines whether to forward the report to the Unit for Combating Money Laundering (MOKAS), the Cyprus FUI, for investigation. Banks retain reports not forwarded to MOKAS, and these are audited by the Central Bank as part of its regular on-site examinations. Banks must file monthly reports with the Central Bank indicating the total number of suspicious activity reports submitted to the compliance officer, and the number forwarded by the compliance officer to MOKAS. By law, bank officials may be held personally liable if their institutions launder money. Cypriot law protects reporting individuals with respect to their cooperation with law enforcement. Banks must retain transaction records for five years.

The Central Bank took several steps during 2001 to improve suspicious activity reporting and the identification of beneficial owners of new accounts. The Central Bank amended its requirement that commercial banks report the opening and maintenance of accounts by banks incorporated in named jurisdictions to 19. The amendment also enhances the requirement to obtain Central Bank approval for cash deposits exceeding $100,000 per year by requiring banks to apply the annual limit to the aggregate value of deposits from family members and business associates.

In 2001, the Central Bank issued rules requiring banks to ascertain the identities of the natural persons who are the "principal/ultimate" beneficial owners of new corporate or trust accounts. This rule was extended to existing accounts in 2002. In 2003, the Central Bank issued new rules that require all banks to obtain as quickly as possible identification data on the natural persons who are the "principal/ultimate" beneficial owners when certain events occur, including an unusual or significant transaction or change in account activity; a material change in the business name, officers, directors and trustees, or business activities of commercial account holders; or a material change in the customer relationship, such as establishment of new accounts or services or a change in the authorized signatories. Banks must also adhere to the Basel Committee on Banking Supervision's October 2001 paper titled "Customer Due Diligence for Banks".

In January 2003 the Central Bank issued a guidance note requiring banks to pay special attention to business relationships and transactions involving persons from jurisdictions identified by the Financial Action Task Force (FATF) as noncooperative. This list is updated regularly in line with the changes effected to the noncooperative list by the FATF.

Cyprus's Exchange Control Law will expire on May 1, 2004, ending Central Bank review of foreign investment applications for non-EU residents. Until that date, such individuals wishing to invest on the island will still apply through the Central Bank. After that date, they will apply through the Ministry of Finance. The Ministry will also supervise collective investment schemes.

The Unit for Combating Money Laundering (MOKAS), established in 1997, serves as the FIU. It is headed by a representative of the Attorney General's Office and its 20-member staff includes 14 full-time personnel, three part-time police officers, and three part-time Customs officers. MOKAS expects early in 2004 to complete the hiring process for eight full-time investigators; it will then reorganize to improve its capabilities to generate and investigate any information it may develop on suspected money laundering and terrorist financing activities. MOKAS cooperates closely with FinCEN and other U.S. Government agencies in money laundering investigations.

All banks and nonbank financial institutions—insurance companies, the stock exchange, cooperative banks, lawyers, accountants, and other financial intermediaries—must report suspicious transactions to MOKAS. Sustained efforts by the Central Bank and MOKAS to strengthen reporting have resulted in a significant increase in the number of suspicious activity reports being filed from 25 in 2000 to 106 in 2003. During the same timeframe it received 140 information requests from foreign FIUs, other foreign authorities, and INTERPOL. Six of the information requests were related to terrorism. MOKAS evaluates evidence generated by its member organizations and other sources to determine if an investigation is necessary. It has the power to suspend financial transactions for up to 24 hours. MOKAS also has the power to apply for freezing or restraint orders affecting any kind of property, at a very preliminary stage of an investigation. MOKAS also conducts anti-money laundering training for Cypriot police officers, bankers, accountants, and other financial professionals. Training for bankers is conducted in conjunction with the Central Bank of Cyprus. MOKAS announced in mid-2003 that it planned to connect its computer network with the central government network, thus giving the Unit direct access to other GOC agencies and ministries.

From January to November 2003, MOKAS opened 246 cases and closed 123. During the same period, it issued 21 Information Disclosure Orders and 12 freezing orders, resulting in the freezing of $2,395,589 in bank accounts, 11 plots of land, two apartments, one house and one shop. Government actions to seize and forfeit assets have not been politically or publicly controversial, nor have there been retaliatory actions related to money laundering investigations, cooperation with the United States, or seizure of assets. There have been six convictions recorded under the 1996 Anti-Money Laundering law, while 15 cases are pending.

Cyprus has implemented the FATF's Special Recommendations on Terrorist Financing. As described above, the Central Bank took steps to extend to existing accounts its rules requiring identification of the beneficial owners of bank accounts. The Central Bank also requires compliance officers to file an annual report outlining measures taken to prevent money laundering and to comply with its guidance notes and relevant laws. In addition to the Central Bank's routine compliance reviews, MOKAS is now authorized to conduct unannounced inspections of bank compliance records. MOKAS also maintains an active outreach and education program targeted at compliance officers, lawyers and accountants. In July 2002, the U.S. Internal Revenue Service (IRS) officially approved Cyprus's "Know-Your-Customer" rules, which form the basic part of Cyprus' anti-money laundering system. As a result of the above approval, banks in Cyprus that may be acquiring United States securities on behalf of their customers are eligible to enter into a "withholding agreement" with the IRS and become qualified intermediaries.

On November 30, 2001, Cyprus ratified the UN International Convention for the Suppression of the Financing of Terrorism. The implementing legislation amended the anti-money laundering law to criminalize the financing of terrorism. The GOC created a sub-unit within MOKAS to focus specifically on the financing of terrorism. The MOKAS coordinates with the new GOC counterterrorism task force under the authority of the Attorney General. MOKAS subsequently issued circular notices to banking institutions concerning their obligations in the area of terrorist financing. The Central Bank also issued a series of orders requiring domestic and offshore banks to notify it of accounts held by any individuals or organizations associated with the financing of terrorist organizations, and to freeze assets held in those accounts. These orders are based on the identification of individuals and organizations named by the UN, the United States and the European Union. These requirements apply equally to domestic and offshore banks. No bank reported holding a matching account as of the end of 2003. The lawyers' and accountants' associations cooperate closely with the Central Bank. The GOC cooperates with the United States to investigate terrorist financing.

There is no evidence that alternative remittance systems such as hawala or black market exchanges are operating in Cyprus. The GOC believes that its existing legal structure is adequate to address money laundering through such alternative systems. The GOC licenses charitable organizations, which must

file with the GOC copies of their organizing documents and annual statements of account. The majority of all charities registered in Cyprus are domestic organizations.

Cyprus is a party to the 1988 UN Drug Convention. In March 2003 it ratified the UN Convention against Transnational Organized Crime. Cyprus is a member of the Council of Europe's MONEYVAL, and is a member of the Offshore Group of Banking Supervisors. The UCML is a member of the Egmont Group and has signed MOUs with the FIUs of Belgium, France, the Czech Republic, Slovenia, Malta, Ireland and Israel. Although Cypriot law specifically allows the UCML to share information with other FIUs without benefit of an MOU, Cyprus is negotiating MOUs with Australia, Canada, Poland, Russia, and Ukraine. A Mutual Legal Assistance Treaty between Cyprus and the United States entered into force September 18, 2002. In 1997, the GOC entered into a bilateral agreement with Belgium for the exchange of information on money laundering.

Cyprus has been divided since the Turkish military intervention of 1974, following a coup d'etat directed from Greece. Since then, the southern part of the country has been under the control of the Government of the Republic of Cyprus. The northern part is controlled by a Turkish Cypriot administration that in 1983 proclaimed itself the "Turkish Republic of Northern Cyprus." The U.S. Government recognizes only the Government of the Republic of Cyprus.

It is more difficult to evaluate anti-money laundering efforts in the "Turkish Republic of Northern Cyprus" ("TRNC"), but there continues to be evidence of trade in narcotics with Turkey and Britain, as well as of money laundering activities. "TRNC" officials believe that the 21 essentially unregulated, and primarily Turkish-mainland owned, casinos are the primary vehicles through which money laundering occurs. Funds generated by these casinos are reportedly transported directly to Turkey without entering the "TRNC" banking system, and there are few safeguards to prevent the large-scale transfer of cash from the "TRNC" to Turkey. Although "TRNC" law prohibits individuals entering or leaving the "TRNC" from transporting more than $10,000 in currency, "Central Bank" officials note that this law is difficult to enforce, given the large volume of travelers between Turkey and the "TRNC." In 2003, the "TRNC" relaxed restrictions that limited travel across the UN-patrolled buffer zone. As a result, an informal currency exchange market is developing, principally to convert Cypriot pounds into U.S. dollars.

In 1999, a money laundering law for northern Cyprus went into effect with the stated aim of reducing the number of cash transactions in the "TRNC" as well as improving the tracking of any transactions above $10,000. Banks are required to report to the "Central Bank" any electronic transfers of funds in excess of $100,000. Such reports must include information identifying the person transferring the money, the source of the money, and its destination. Furthermore the 1999 law also prohibits individuals entering or leaving the "TRNC" from transporting more than $10,000 in currency. Banks, nonbank financial institutions, and foreign exchange dealers must report all currency transactions over $20,000 and suspicious transactions in any amount. Banks must follow a know-your-customer policy and require customer identification. Banks must also submit suspicious transactions to a central multi-agency committee that will function as an FIU and have investigative powers. The five-member committee is composed of representatives of the police, the "Central Bank", and the "Ministry of the Economy." "Central Bank" officials admit that very few suspicious transaction reports have been filed since the inception of the law. In June 2003, the "Head of Bank Supervision" for the "Central Bank" spent several weeks in the United States to learn about the detection and prevention of money laundering in the banking sector, including meetings with several U.S. Government agencies.

There is an offshore sector, consisting of 33 banks and approximately 54 IBCs. The offshore banks may not conduct business with "TRNC" residents and may not deal in cash. The offshore entities are audited by the "Central Bank" and are required to submit a yearly report on their activities. However, the "Central Bank" has no regulatory authority over the offshore banks and can neither grant nor revoke licenses. Instead, the "Ministry of the Economy" performs this function, which leaves the

process open to politicization and possible corruption. Although a proposed new law would have restricted the granting of new bank licenses to only those banks already having licensees in an OECD country, the law never passed. In spite of a growing awareness in the "TRNC" of the danger represented by money laundering, it is clear that "TRNC" regulations fail to provide effective protection against the risk of money laundering. The new law of the "TRNC" does provide better banking regulations than were previously in force. The major weakness continues to be the "TRNC's" many casinos, where a lack of resources and expertise leave that area, for all intents and purposes, unregulated, and therefore especially vulnerable to money laundering abuse. The fact that the "TRNC" is recognized only by Turkey prevents "TRNC" officials from receiving training or funding from international organizations with experience in combating money laundering.

Cyprus has put in place a comprehensive and viable anti-money laundering regime. It should continue to take steps to tighten implementation of its laws. In particular, it should ensure that regulation of charitable and nonprofit entities is adequate. Unless it does so, Cyprus' financial sector will remain vulnerable to abuse by organized crime and terrorist organizations and their supporters.

Czech Republic

Both geographic and economic factors render the Czech Republic vulnerable to money laundering. Narcotics trafficking, smuggling, auto theft, arms trafficking, tax fraud, embezzlement, racketeering and trafficking in persons are the major sources of funds that are laundered in the Czech Republic. Domestic and foreign organized crime groups target Czech financial institutions for laundering activity; banks, currency exchanges, casinos and other gaming establishments, investment companies, and real estate agencies have all been used to launder criminal proceeds.

Money laundering was technically criminalized in September 1995 through additions to the Czech Criminal Code. Although the Criminal Code does not explicitly mention money laundering, its provisions apply to financial transactions involving the proceeds of all serious crimes. The Financial Action Task Force (FATF) report of July 2001 on the Czech Republic notes that the country had some major weaknesses in its anti-money laundering regime. The Czech Government—partly in the context of conforming its legislation to European Union (EU) requirements—has been working to draft new laws and regulations.

In July 2002, an amendment to the Criminal Code became effective. This amendment introduces a new, independent offense called "Legalization of Proceeds from Crime." This offense has a wider scope than previous provisions in that it enables prosecution for laundering one's own illegal proceeds. Also in July 2002, the legalization of proceeds from all serious criminal activity became punishable by five to eight years imprisonment, depending on the circumstances.

For years, the Czech Republic had been criticized for allowing anonymous passbook accounts to exist within the banking system. Legislation adopted in 2000 prohibited new anonymous passbook accounts. In 2002, the Act on Banks was amended to abolish all existing bearer passbooks by December 31, 2002, and by June 2003, approximately 400 million euros had been converted. While account holders can still withdraw money from the accounts for the next decade, the accounts do not earn interest and cannot accept deposits. In 2003 the Czech National Bank introduced new Know Your Customer measures based on the recommendations of the Basel Committee, and created an on-site inspector team, which planned three on-site bank inspections for the latter half of 2003. New due diligence provisions became effective in January 2003. The Czech Government is considering placing a limit of 500,000 Czech Crowns, or approximately $19,250 on the amount of cash that can change hands in cash transactions.

An amendment to the Anti-Money Laundering Act was prepared and submitted to the Parliament; it is expected to take effect on January 1, 2004. The new amendment also aims to streamline the legislation

regarding the identification of beneficial owners. It will also extend the list of obligated entities to include attorneys, casinos, realtors, notaries, accountants, tax auditors, and entrepreneurs with transactions exceeding the EU-standard 15,000 euros. Obligated institutions will be required to report all transactions that are suspected of being linked to terrorist financing. This will harmonize Czech legislation with the Second EU Directive.

The amendment to the Anti-Money Laundering Act also extends the responsibilities of the Czech Republic's financial intelligence unit (FIU), known as the Financial Analytical Unit (FAU), to combat terrorism financing as well as money laundering; to fulfill these additional responsibilities, the new legislation also provides for an increase in the number of FIU staff. The FAU will also be authorized to share all information with the Czech Intelligence Service (BIS) and Czech National Security Bureau (NBU). In addition, the proposed amendment also authorizes FAU to cooperate with similar units around the world, regardless of whether these units are administrative or law enforcement. This would include states that are not members of the Egmont Group. Currently, FAU is authorized to freeze accounts for 72 hours. However, FAU can be hampered because it often waits for the annual tax submission of suspected individuals before passing cases on, a circumstance that can allow funds and property to disappear before the police can seize them.

The number of suspicious transaction reports transmitted to the FAU has increased significantly, as has the number evaluated and forwarded to law enforcement, indicating an active participation of the mandated entities in the anti-money laundering regime. After clarifications to the reporting requirements in 1996, reporting rose from 95 unusual transactions per annum (1996) to 1,750 suspicious transactions in 2001, 1,260 in 2002, and 1,681 from January through November 2003. The number of reports forwarded to the police increased from none the first year to 115 in 2002 and 99 as of mid-November 2003; every case that was passed to law enforcement was investigated.

Likewise, law enforcement has seen an increase in personnel and financial support, including a January 2003 reorganization that has joined the former Unit for Combating Financial Criminality with the State Protection unit and the Unit for Combating Corruption and Serious Economic Crime. The new Unit for Combating Corruption and Financial Criminality (UOKFK) now has responsibility for all financial crime and corruption cases. In May 2003, the Department of Proceeds from Criminal Activity was divided into two sections and renamed accordingly: the Proceeds from Criminal Activity Section and the Money Laundering Section. The Money Laundering Section is the main law enforcement counterpart to FAU, a partnership which has led to the first formal charges on money laundering. Another specialized police unit, this one focusing on tax fraud, is expected to be established in July 2004.

The Czech Republic has not yet seen a successful prosecution in a money laundering case. Czech FIU representatives are confident that with the new anti-money laundering legislation, a successful prosecution is imminent. Six cases, all based on tax fraud and economic crimes, are ongoing, and as of June 2003, one person was in custody and more than $100,000 frozen. One ongoing issue is that in the Czech Republic, law enforcement must prove proceeds are derived from criminal activity. The accused is not obligated to prove that the origin of property or assets is legitimate.

The Czech Government approved the National Action Plan of the Fight Against Terrorism in April 2002. This document covers themes ranging from police work and cooperation to protection of security interests, enhancement of security standards, and customs issues. The performance of the factors identified in the Action Plan is presently under analysis. The FAU currently is distributing "terrorist lists" to relevant financial and governmental bodies. While the Czechs do not have specific laws criminalizing terrorist financing, they do have legislation permitting rapid implementation of UN and EU financial sanctions, including action against accounts held by suspected terrorist entities or individuals. Czech authorities have been cooperative in the global effort to identify suspect accounts, but none have yet been found in Czech financial institutions. The Czech government submitted draft

legislation to the Parliament to amend Act No. 61/1996 to include measures to combat terrorism financing and to allow implementation of UNSCR 1483, to allow for the freezing and transfer of suspected terrorist assets. A new government body called the Clearinghouse was instituted in October 2002, under the FAU; its function is to streamline input from institutions in order to enhance cooperation and response to a terrorist threat.

A May 2001 revision of the Criminal Code facilitates the seizure and forfeiture of bank accounts. The year 2002 saw major changes in the Criminal Procedure Code. In January 2002, changes were effected which allow a judge, prosecutor, or the police (with prosecutor's assent) to freeze an account if evidence indicates that the contents were used, or will be used, to commit a crime, or if the contents are proceeds of criminal activity. In urgent cases the police can also freeze the account without previous consent of the prosecutor, but have to inform the prosecutor within 48 hours, who then confirms the freeze or releases the funds. The Law on the Administration of Asset Forfeiture in Criminal Procedure, passed in August 2003, implements provisions such as handling and care responsibilities for the seizure of property, and will become effective on January 1, 2004.

The United States and the Czech Republic have a Mutual Legal Assistance Treaty, which entered into force on May 7, 2000. The Czech Republic has signed memoranda of understanding (MOUs) on information exchange with Belgium, France, Italy, Croatia, Cyprus, Estonia, Latvia, Lithuania, Poland, Slovenia, Slovakia, and Bulgaria. Formalization of an agreement between the Czech Republic and Europol, the European police office, also took place in 2002. The agreement allows an exchange of information about specific crimes and investigating methods, the prevention of crime, and the training of police. Among the most important crimes cited in the cooperation agreement are terrorism, drug dealing, and money laundering.

The FAU is a member of the Egmont Group, and is authorized to cooperate with its foreign counterparts, including those not part of the Egmont Group. The Czech Republic is a party to the Strasbourg Convention and actively participates in the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) as both evaluator and "evaluatee," and in 2001 underwent a mutual evaluation by the Committee. The Czech Republic continues to implement changes to its anti-money laundering regime based on the results of the mutual evaluation. In May 2003, the Czech Republic also underwent a financial sector assessment by the World Bank/IMF. The Czech Republic is a party to the 1988 UN Drug Convention and in December 2000 signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. The Czech Republic also is a party to the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. The Czech Republic became a signatory to the UN International Convention for the Suppression of the Financing of Terrorism in 2000, but has not yet ratified it.

The Czech Republic should continue to enhance its anti-money laundering regime by adopting the suggestions of the MONEYVAL mutual evaluation report. The Parliament should enact the new amendments, and draft legislation to more effectively combat both money laundering and terrorism financing, as well as strengthening the FAU to allow more efficient operation. The Czech Republic should criminalize terrorist financing and should become a party to the UN International Convention for the Suppression of the Financing of Terrorism. In addition, the Czech Republic should continue to work toward supporting and streamlining its prosecution regime, including changing the burden of proof procedures, so that the Czech Republic can begin to prosecute anti-money laundering cases successfully.

Denmark

Denmark is a regional financial center with 99 commercial banks and 86 local and savings banks. The banking system is under the control of the Financial Supervisory Authority, and the Danish legal and

regulatory systems are transparent and consistent with European Union directives and regulations. Corruption is not a major problem in Denmark. According to the 2002 Corruption Perceptions Index by Transparency International, Denmark is the second least corrupt country in the world. However, Denmark is a transit country for the smuggling of human beings and narcotics to Sweden and Norway, which creates the opportunity for corruption.

Money laundering is a criminal offense in Denmark, regardless of the predicate offense. The 1993 Act on Measures to Prevent Money Laundering covers customer identification and mandatory suspicious transaction reporting. Denmark also has the Gambling Casino Act of 1993, which specifically addresses casino money laundering issues and customer registration information. Legislation that went into effect in June 2002 requires that the importation or exportation of any money exceeding 15,000 euros be reported to customs upon entry into Denmark.

Legislation adopted on May 5, 2002, by the Danish Parliament, extends the Money Laundering Act to include lawyers, accountants, tax advisors, real estate agents, money transmitters, money exchange offices, and transporters of currency among those required to file suspicious transaction reports (STRs).

Banks and other financial institutions are required to know, record, and report the identity of all their customers when there is a business relationship, and maintain those records for five years beyond the termination of that relationship. For other customers not in a business relationship with the bank (nonaccount holders), the financial institutions are only required to collect and store the identification information for those transactions over 15,000 euros for five years. There are no secrecy laws in Denmark that prevent disclosure of financial information to competent authorities, and there are laws that protect bankers and others who cooperate with law enforcement authorities.

The amendments to the Criminal Code in Denmark do not apply to the Faroe Islands, but the Ministry of Justice in Denmark and representatives from the Faroe Home Rule are deliberating on how to fulfill and comply with the UNSCR 1373. The existing special Criminal Code for Greenland contains provisions concerning acts committed with a terrorist purpose. The Denmark Ministry of Justice will examine the revised criminal code when it becomes available to ensure that all requirements in UNSCR 1373 are fully satisfied.

Denmark's financial intelligence unit (FIU), the Money Laundering Secretariat within the Public Prosecutor's office, provides a central point for collection of all intelligence related to money laundering. The FIU is also responsible for receiving reports of suspicion of money laundering and terrorist financing. STRs from the credit and financial sectors have ranged from 249 to 357 over the last five years. Denmark's Office of the Public Prosecutor for Serious Economic Crime consists of both public prosecutors and police officers specially trained in fighting economic crime. Denmark has cooperated fully with U.S. authorities with regards to money laundering investigations.

Denmark passed comprehensive antiterrorism legislation on June 4, 2002, specifically addressing terrorist financing and implementing UNSCR 1373. The May 5, 2002 legislation also extends the Money Laundering Act so that if a transaction is suspected of ties to terrorism financing it must have the prior consent of the Money Laundering Secretariat before it can be carried out. The blocking of assets either belonging to, or at the disposal of, a suspect is covered under the Danish Administration of Justice Act. Asset blocking may take place concurrent with an investigation or when charges have been filed. Seizures or forfeitures of proceeds from a criminal act performed by a person found guilty are provided for under the Danish Penal Code.

Denmark's Extradition Act prohibits extradition for a political offense except for requests covered by the Council of Europe's European Convention for the Suppression of Terrorism, the International Convention for the Suppression of the Financing of Terrorism, and the International Convention for the Suppression of Terrorist Bombings. Denmark normally does not extradite Danish citizens except

to other Nordic countries, according to a 1960 agreement. However, Denmark has amended the regulations to allow for extradition of Danish citizens to other countries as part of the fight against terrorism.

In an effort to prevent terrorist financing or transnational crime, Denmark signed an agreement in 1999 with Australia to combat money laundering and break up illegal networks. Denmark and the United States signed a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income in March 2000. The treaty provides for the exchange of information for investigative purposes. In December 2002, Denmark helped negotiate, on behalf of the EU, a U.S.-Europol agreement on the exchange of personal data and related information that aids in tracing financial transactions and thereby helps combat the underlying crime. Denmark is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism. On September 30, 2003, Denmark ratified the UN Convention against Transnational Organized Crime Denmark is part of the Nordic Police and Customs Co-operation, the Task Force on Organized Crime in the Baltic Sea Region, Interpol, Europol, and the Schengen Agreement. It participates in European Union anti-money laundering efforts, and its financial intelligence unit belongs to the Egmont Group. Denmark has endorsed the Basel Committee's "Core Principles for Effective Banking Supervision." Denmark is also a member of the Financial Action Task Force.

Denmark should continue to enhance its comprehensive anti-money laundering/antiterrorist financing regime. Denmark should also continue its efforts in multilateral fora.

Djibouti

Djibouti is the most stable country in the Horn of Africa. Though small in size, its strategic location, currency pegged to the U.S. dollar, and unrestricted foreign exchange make it a financial hub in the region. Djibouti is not considered an offshore financial center but offshore institutions are permitted and even encouraged to settle at the current Free Zone. The three existing banks handle the bulk of financial transactions, followed by a growing number of "hawaladars" or small informal financial institutions. Due to Djibouti's location on the Horn of Africa and its cultural and historical trading ties, Djibouti based traders and brokers are active in the region. Trade goods often provide counter valuation or a means of balancing the books in hawala transactions. Djibouti adopted anti-money laundering legislation in December 2002. The legislation contains provisions for criminal penalties as well as steps to prevent money laundering. It regulates financial institutions and their activities including money deposits, insurance, investment, real estate, and casinos. The legislation and Central Bank further impose a set of criteria for customer identification and communication of information. The legislation provides legal protection and professional secrecy waiver for individuals reporting suspect transactions, and lists surveillance procedures for suspect accounts. Convicted money launderers and employees of financial institutions who do not abide by the regulations face jail, fines and seizing of assets. Five to ten years in jail and $141,283 to $282,566 are penalties for facilitating transactions related to money laundering or terrorist financing. Failing to report suspect transactions carries a penalty of $56,513 to $141,283. The Central Bank is planning to set up a money laundering investigation bureau. The bureau will also provide expertise to the banking community concerning counterfeit currency. Djibouti will cooperate with other countries to exchange information, assist in investigations, and facilitate the extradition process.

Djibouti is a party to the UN Drug Convention and has signed the UN International Convention for the Suppression of the Financing of Terrorism.

Djibouti should become party to both the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. It should pass specific counter terrorist finance legislation that adheres to world standards. While Djibouti took a

positive step by adopting anti-money laundering legislation, enforcement of the law remains a major challenge. Corrupt officials are also a concern. A large number of hawaladars are not controlled by the Central Bank. Law enforcement and customs officials should give greater scrutiny to alternative remittance systems and trade based money laundering.

Dominica

The Commonwealth of Dominica initially sought to attract offshore dollars by offering a wide range of confidential financial services, low fees, and minimal government oversight. A rapid expansion of Dominica's offshore sector without proper supervision made it attractive to international criminals, and therefore, vulnerable to official corruption. In response to international criticism, Dominica has enacted legislation to address many of the deficiencies in its anti-money laundering program, but complete implementation of its reforms remains vital to the country's ability to combat financial crime including money laundering.

Dominica's financial sector includes 1 offshore and 5 domestic banks, 17 credit unions, 8,601 international business companies (IBCs) (a significant increase from 1,435 in 2002), 23 insurance agencies, and 4 operational Internet gaming companies (although reports have indicated over 30 such gaming sites exist). Under Dominica's economic citizenship program individuals can purchase Dominican passports as well as official name changes for approximately $75,000 for an individual and $100,000 for a family of up to four persons. Dominica's economic citizenship program does not appear to be adequately regulated. Individuals from the Middle East, the former Soviet Union, the Peoples' Republic of China and other foreign countries have become Dominican citizens and entered the United States via a neighboring country without visas.

In June 2000, the Financial Action Task Force (FATF) identified Dominica as noncooperative in international efforts to combat money laundering (NCCT). The U.S. Department of Treasury also issued an advisory to U.S. financial institutions in July 2000 warning them to "give enhanced scrutiny" to financial transactions involving Dominica. In October 2002, Dominica was removed from the NCCT list. The U.S. Treasury advisory was removed in April 2003. The FATF noted in June 2003 that implementation of Dominica's anti-money laundering reforms had continued to improve, as did the cooperation of its financial intelligence unit (FIU) with foreign authorities and its response to mutual legal assistance requests.

Following the June 2000 action by FATF, the Minister of Finance announced a comprehensive review of all offshore banks and the establishment of an Offshore Financial Services Council (OFSC). The OFSC mandate is to advise the Government of the Commonwealth of Dominica (GCOD) on policy issues relating to the offshore sector and to make recommendations with respect to applications by service providers for licenses. Under common banking legislation enacted by its eight member jurisdictions, the Eastern Caribbean Central Bank (ECCB) acts as the primary supervisor and regulator of onshore banks in Dominica. An agreement between the OFSC and the Eastern Caribbean Central Bank (ECCB) in December 2000 places Dominica's offshore banks under the dual supervision of the ECCB and the GCOD International Business Unit (IBU). In compliance with the agreement, the ECCB assesses applications for offshore banking licenses, conducts due diligence checks on applicants, and provides a recommendation to the Minister of Finance. The Minister of Finance is required to seek advice from the ECCB before exercising his powers in respect of licensing and enforcement.

The Offshore Banking (Amendment) Act No. 16 of 2000 (effective January 25, 2001) prohibits the opening of anonymous accounts, prohibits IBCs from direct or indirect ownership of an offshore bank and requires disclosure of beneficial owners and prior authorization to changes in beneficial ownership of banks. All offshore banks are required to maintain a physical presence in Dominica, such as a physical structure, on-site staff actively conducting business, and appropriate management, in addition

to books and records of transactions maintained on-site and available for review. Inspections of Dominica's offshore banks are conducted by ECCB in collaboration with the IBU. The ECCB is not able to share examination information directly with foreign regulators or law enforcement personnel. Legislation to permit such sharing is being developed; however, it has not been adopted by all ECCB member jurisdictions.

The International Business Companies (Amendment) Act No. 13 of 2000 (effective January 25, 2001) requires that newly issued bearer shares be kept with an "approved fiduciary," who is required to maintain a register with the beneficial owner name and address. Additional amendments to the Act in September 2001 require previously issued bearer shares to be registered.

The Act empowers the IBU to "perform regulatory, investigatory, and enforcement functions" of IBCs. The IBU staff normally consists of an Acting Manager, two professional staff (supervisors/examiners), and one administrative assistant. The IBU supervises and regulates offshore entities and domestic insurance companies. The IBU also supervises, regulates, and inspects Dominica's registered agents, and visits IBCs to ensure that the companies are operating in compliance with requirements imposed by law.

The Money Laundering (Prevention) Act (MLPA) No. 20 of December 2000 (effective January 2001) and its July 2001 amendments criminalize the laundering of proceeds from any indictable offense. The MLPA overrides secrecy provisions in other legislation and requires financial institutions to keep records of transactions for at least seven years. The MLPA also requires persons to report cross-border movements of currency that exceed 10,000 Eastern Caribbean dollars ($3,800) to the FIU.

The MLPA establishes the Money Laundering Supervisory Authority (MLSA) and authorizes it to inspect and supervise nonbank financial institutions and regulated businesses for compliance with the MLPA. The MLSA is also responsible for developing anti-money laundering policies, issuing guidance notes, and conducting training. The MLSA consists of five members: a former bank manager, the IBU manager, the Deputy Commissioner of Police, a senior state attorney, and the Deputy Comptroller of Customs. The MLPA requires a wide range of financial institutions and businesses, to include any offshore institutions, to report suspicious transactions simultaneously to the MLSA and the financial intelligence unit (FIU).

The May 2001 Money Laundering (Prevention) Regulations apply to all onshore and offshore financial institutions (including banks, trusts, insurance companies, money transmitters, regulated businesses, and securities companies). The regulations specify customer identification, record keeping, and suspicious transaction reporting procedures, and require compliance officers and training programs for financial institutions. The regulations require that the true identity of the beneficial interests in accounts must be established, and the nature of the business and the source of the funds of the account holders and beneficiaries must be verified. Anti-Money Laundering Guidance Notes, also issued in May 2001, provide further instructions for complying with the MLPA and provide examples of suspicious transactions to be reported to the MLSA.

The FIU was also established under the MLPA, and became operational in August 2001. The FIU's trained staff consists of two certified financial investigators, a Director, Deputy Director, and an administrative assistant. The FIU analyzes the reports of suspicious transactions (SARs) and cross-border currency transactions, forwards appropriate information to the Director of Public Prosecutions (DPP), and carries on liaison with other jurisdictions on financial crimes cases. As of December 2003, the FIU had received 88 SARs. There have been no known convictions on money laundering charges in Dominica. During 2003, the GCOD collaborated closely with U.S. and foreign law enforcement agencies in a widespread money laundering case involving European narcotics trafficking proceeds in one of the now closed offshore banks in Dominica. As a result of this case, money laundering prosecutions are being brought in the U.S., UK, and Germany.

On June 5, 2003, Dominica gazetted the Suppression of Financing of Terrorism Act (No. 3 of 2003), which provides authority to identify, freeze, and seize terrorist assets, and to revoke the registration of charities providing resources to terrorists. Dominica circulates lists of terrorists and terrorist entities to all financial institutions in Dominica. To date, no accounts associated with terrorists or terrorist entities have been found in Dominica. The GCOD has not taken any specific initiatives focused on alternative remittance systems. Dominica is the only Caribbean country that has not signed the Inter-American Convention Against Terrorism.

In May 2000, a Mutual Legal Assistance Treaty between Dominica and the U.S. entered into force. The GCOD has a Tax Information Exchange Agreement with the U.S. An Amendment to the Mutual Assistance in Criminal Matters Act, which will provide for judicial cooperation between Dominica and non-Commonwealth countries that have no mutual legal assistance treaties, passed Parliament in September 2002, but has not come into effect. The MLPA authorizes the FIU to exchange information with foreign counterparts. The 2002 Exchange of Information Act provides for information exchange between regulators. The MLPA provides for freezing of assets for seven days by the FIU, after which time a suspect must be charged with money laundering or the assets released; assets may be forfeited after a conviction.

Dominica is a member of the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD). Dominica is also a member of the Caribbean Financial Action Task Force (CFATF), and underwent its second round mutual evaluation in September 2003. Dominica's FIU was accepted into the Egmont Group in June 2003. Dominica is a party to the 1988 UN Drug Convention. Dominica has not signed the UN International Convention for the Suppression of the Financing of Terrorism.

In response to pressure from the international community, the GCOD enacted a number of reforms to address the deficiencies in its financial sector. The GCOD should fully implement and enforce the provisions of its recent legislation, provide additional resources for regulating offshore entities, including its gaming sites, and continue to develop the FIU to enable it to coordinate its own anti-money laundering efforts and cooperate with foreign authorities. The GCOD should eliminate its program of economic citizenship. The GCOD should become a party to the UN International Convention for the Suppression of the Financing of Terrorism. Such measures will help protect Dominica's financial system from further abuse by international criminals and terrorist organizations.

Dominican Republic

The Dominican Republic (DR) continues to be a key point for the transshipment of narcotics moving from South America into Puerto Rico and the United States. The DR's financial institutions engage in currency transactions involving international narcotics trafficking proceeds that include significant amounts of U.S. currency or currency derived from illegal drug sales in the United States. The smuggling of bulk cash by couriers and wire transfer remittances are the primary methods for moving illicit funds from the United States into the DR. Once in the DR, currency exchange houses and money remittance companies facilitate the laundering of these illicit funds. The DR has many free trade zones and is reported to have nearly 30 Internet gaming sites.

During 2003, three Dominican banks failed, including the third largest in the nation, Baninter, where approximately $2.2 billion evaporated over several years. The failure of two smaller banks, Banco Mercantil and Bancredito, brought the total loss to about $3 billion, which is approximately 15 percent of the gross domestic product. Charges of bank fraud were filed against five individuals related to Baninter, but all were later released on bail. Preliminary investigations revealed no useful information as to the sources of the missing Baninter funds or the presence of laundered accounts. Despite the Government of the Dominican Republic (GODR) guarantees for all depositors, several large accounts carried on the bank's books remained unclaimed by the owners.

There have been notable legislative and regulatory efforts by the GODR to combat narcotics trafficking, corruption, money laundering, and terrorism. Narcotics-related money laundering has been deemed a criminal offense since the enactment of Act 17 of December 1995 (the "1995 Narcotics Law"). The Act allows preventive seizures and criminal forfeiture of drug-related assets, and authorizes international cooperation in forfeiture cases. While numerous narcotics-related investigations were initiated under the 1995 Narcotics Law and substantial currency and other assets confiscated, there have been only three successful money laundering prosecutions under the 1995 Narcotics Law. In 1998, the GODR passed legislation that allows extradition of Dominican nationals on money laundering charges.

Under Decree No. 288-1996, the Superintendence of Banks, banks, currency exchange houses, and stockbrokers are required to know and identify their customers, keep records of transactions for five years, record currency transactions greater than approximately $10,000, and report suspicious financial transactions (SARs) to the Financial Analysis Unit (FAU), the financial intelligence unit (FIU) of the DR.

In June 2002, the GODR augmented its measures to prevent and combat money laundering, drug trafficking, and related activities, with the passage of Law No. 72-02. This law expanded the predicate offenses for money laundering beyond illicit trafficking in drugs and controlled substances, to include other serious crimes such as any act related to terrorism, illicit trafficking in human beings or human organs, arms trafficking, kidnapping, extortion related to recordings and electronic film made by physical or moral entities, vehicles theft, counterfeiting of currency, fraud against the State, embezzlement, and extortion and bribery related to narcotics trafficking. The law broadened the requirements for customer identification, record keeping of transactions, and reporting of SARs, to include numerous other financial sectors including: securities brokers, the Central Bank, cashers of checks or other types of negotiable instruments, issuers/sellers/cashers of travelers checks or money orders, credit/debit card companies, funds remittance companies, offshore financial service providers, casinos, real estate agents, automobile dealerships, insurance companies, and certain commercial entities such as those dealing in firearms, metals, archeological artifacts, jewelry, boats, and airplanes. Law No. 72-02 also requires the reporting of cash transactions greater than approximately $10,000 to the FAU. The legislation also requires individuals to declare cross-border movements of currency that are equal to or greater than the equivalent of approximately $10,000 in domestic or foreign currency.

In 1997, the FAU was created within the Superintendence of Banks to receive, analyze, and disseminate SAR information. The FAU also refers SARs to the Financial Investigative Unit of the National Drug Control Directorate (DNCD) for follow up investigation. In 2003, counter narcotics authorities of the Dominican Republic's DNCD pursued nine cases of money laundering related to narcotics, arresting three persons and seizing a total of 29 vehicles, 18 firearms, 12 buildings, and $184,701 in cash. Most of the seizures were connected with one large case.

The GODR responded to U.S. Government efforts to identify and block terrorist-related funds. Although no assets were frozen, efforts continue through orders and circulars issued by the Ministry of Finance and the Superintendence of Banks, instructing all financial institutions to continually monitor accounts of the designated individuals and entities.

On November 15, 2001, the GODR signed, but has not yet become a party to, the UN International Convention for the Suppression of the Financing of Terrorism. The Dominican Republic is a party to the 1988 UN Drug Convention and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. The DR is a member of the Caribbean Financial Action Task Force (CFATF) and the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD). The FAU is a member of the Egmont Group, and is authorized to exchange information with other FIUs. Cooperation with USG law enforcement on fugitive and extradition matters remains strong.

Effective implementation of the expanded anti-money laundering law of June 2002 should be a priority for the GODR, as should sustained anti-corruption efforts. The GODR should maintain adequate supervision and controls relating to its many free zones and Internet gaming sites, which may represent vehicles to facilitate money laundering or the financing of terrorist groups. The GODR should criminalize terrorist financing.

East Timor

East Timor is the world's newest nation and is still in the process of establishing legislation and regulations governing the financial sector. Very few regulations governing financial institutions have been implemented and capacity to monitor the sector is limited. At present, there are only three banks operating in East Timor with international linkages. All three are branches for foreign banks. The largest of these is BNU, a Portuguese bank, followed by Australian ANZ bank, and Indonesian bank Mandiri. In the absence of local legislation and regulations, East Timor requires these banks to follow their host country laws. Presumably, these banks are supervised by home country supervisors. East Timor does not have any nonbanking financial institutions.

East Timor acknowledges the need to criminalize the financing of terrorism, but lacks the internal capacity to draft the legislation and implementing regulations. There is no evidence that the country's financial system has been used to finance terrorism or to launder money.

In addition to criminalizing the financing of terrorism, the government of East Timor should become a party to the U.N International Convention for the Suppression of Terrorism, should consider becoming an observer to the Asia/Pacific Group on Money Laundering, and begin the process of developing a comprehensive anti-money laundering regime.

Ecuador

Ecuador, a major drug transit country, lacks an effective anti-money laundering regime. Ecuador's dollarized economy increases the attractiveness of Ecuador as a money laundering site. Proximity to Colombia and Peru, increases Ecuador's vulnerability to drug money laundering. Laundering may also occur in the real estate market and through sales of businesses or commercial contraband.

The Narcotics and Psychotropic Substance Act of 1990 (Law 108) provides for the following money laundering crimes, but only in connection with illicit drug trafficking: illegal enrichment (Article 76), conversion or transfer of assets (Article 76, 77), and prosecution of front men (figureheads) (Article 78). Law 108 currently is being revised. However, there is broad agreement that Law 108 is an inappropriate vehicle for money laundering provisions that extend beyond drug offenses. In November 2003, an interagency group completed a draft of a stand-alone law criminalizing the laundering of proceeds of any crime. The draft law was submitted to the President for transmittal to the Congress early in 2004.

Regulations issued pursuant to Law 108, the 1994 Financial System Law, and a 1996 Banking Superintendency Resolution require financial institutions to report to the National Drug Council (CONSEP) any transaction in cash or stocks over $5,000, as well as suspicious financial transactions. Mutual societies are required to report transactions of $5,000 and above. Financial cooperatives must report transactions of $2,000 and higher. Electronic reporting of this information was implemented in 1999. Banks operating in Ecuador are required to maintain financial transaction records for six years. There are no due diligence or banker negligence laws that hold individual bankers responsible if their institutions launder money. However, a bank's board of directors can be held legally responsible if drug money laundering occurs in their institution.

Some existing laws conflict with the goal of combating money laundering. For example, the Bank Secrecy Law severely limits the information that can be released by a financial institution directly to the police as part of any investigation, and the Banking Procedures Law reserves information on private bank accounts to the Banking Superintendency. In addition, the Criminal Defamation Law sanctions banks and other financial institutions that provide information about accounts to police or advise the police of suspicious transactions if no criminal activity is proven.

As a result of this contradictory legal framework, the National Police must seek and obtain a court order to be able to search for and obtain financial information from banks. However, private financial institutions and banks often refuse to honor such orders, claiming that banking regulations make them answerable only to the Banking Superintendency. In turn, the Banking Superintendency will not accept requests for information directly from the police, but instead requires that the request come via CONSEP and will only pass the information back to CONSEP, which may fail to share it with law enforcement agencies. CONSEP has a financial monitoring unit, but it simply collects information and does not analyze or investigate the data received.

Cooperation between other Government of Ecuador (GOE) agencies and the police falls short of the level needed for effective enforcement of money laundering statutes. The Superintendency of Companies generally refuses to provide any information concerning private corporations to the police. The Ministry of Finance refuses to share with the police information on stock market transactions. Data on property and tax records held by individual municipalities are not generally shared with law enforcement agencies.

In addition, CONSEP historically refused to share financial reporting such as suspicious financial transaction reports with the Central Bank or other financial regulatory agencies such as the Banking Superintendency. As a result, Superintendency auditors cannot verify if a bank is doing all of the mandatory reporting required under the money laundering statutes. Other problems conflicting with an anti-money laundering regime include the absence of regulations requiring financial institutions to exercise due diligence, the lack of reporting requirements on large amounts of currency brought into or taken out of the country, and the weak regulation of currency exchange businesses (casas de cambio).

As a result of these problems, during the past five years there have been no serious investigations of drug money laundering in Ecuador. Without solid financial intelligence, it is impossible to estimate accurately the extent and nature of the money laundering problem in Ecuador. It is not known to what extent money laundering may be related to narcotics proceeds, or may be generated by other crimes such as contraband smuggling, illegal migration, corruption, bank fraud, or terrorism. Private

Ecuadorian bank officials have recently expressed interest in increasing their cooperation with USG experts in order to detect and control money laundering.

The GOE has taken some steps recently to combat money laundering. The Banking Superintendency created a Financial Intelligence Unit that began receiving the mandatory financial transaction reports at the end of 2002 (because of jurisdictional disputes, CONSEP also continued to receive the reports). The National Counternarcotics Police (DNA) have a financial investigations unit that has received some USG-funded training. A new administration installed in mid-2003 to reorganize CONSEP is more cooperative with other agencies. The draft money laundering law developed in 2003 by a GOE interagency commission if passed essentially as drafted, will overcome most of the current conflicts and obstacles. In addition to defining and criminalizing all money laundering, it provides a legal framework for establishment of financial intelligence and investigative units. As an interim administrative measure, the CONSEP financial reporting and monitoring function is being assumed by a temporary financial intelligence unit in the Banking Superintendency. The DNA, the Superintendency of Companies and the Prosecutor General's Office cooperated in their own investigation of two front companies of the Cali Drug Cartel and ordered them liquidated and closed in

August 2003, well before the U.S. Office of Foreign Assets Control listed them as Specially Designated Narcotics Traffickers in October 2003.

Several Ecuadorian banks maintain offshore offices. The Superintendency of Banks is responsible for oversight of both offshore and onshore financial institutions. Regulations are essentially the same for onshore and offshore banks, with the exception that offshore deposits no longer qualify for the government's deposit guarantee. Anonymous directors are not permitted. Licensing requirements are the same for offshore and onshore financial institutions. However, offshore banks are required to contract external auditors pre-qualified by the banking Superintendency. These private accounting firms perform the standard audits on offshore banks that would generally be undertaken by the Superintendency in Ecuador. Bearer shares are not permitted for banks or companies in Ecuador. Terrorist financing has not been criminalized in Ecuador. The Banking Superintendency has cooperated with the USG in requesting financial institutions to report transactions involving known terrorists, as designated by the United States as Specially Designated Global Terrorists pursuant to E.O. 13224 (on terrorist financing) or by the UN 1267 Sanctions Committee. No terrorist finance assets have been identified to date in Ecuador. The Superintendency would have to obtain a court order to freeze or seize such assets in the event they were identified in Ecuador.

Ecuador has signed (September 6, 2000), but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. There is no domestic legislation in force aimed at preventing terrorist financing. No steps have been taken to prevent the use of gold and precious metals to launder terrorist assets. Currently, there are no measures in place to prevent the misuse of charitable or nonprofitable entities to finance terrorist activities.

Ecuador is a party to the 1988 UN Drug Convention and has ratified (September 17, 2002) the UN Convention against Transnational Organized Crime, which is not yet in force internationally. Ecuador is a member of the OAS Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. Ecuador is also a member of the South American Financial Action Task Force (GAFISUD). Ecuador and the United States have an Agreement for the Prevention and Control of Narcotic Related Money Laundering that entered into force in 1994 and an Agreement to Implement the United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of December 1988, as it relates to the transfer of confiscated property, securities and instrumentalities. There is also a Financial Information Exchange Agreement (FIEA) between the Government of Ecuador (GOE) and the U.S. to share information on currency transactions.

Ecuador should enact comprehensive anti-money laundering legislation that encompasses all serious crimes including the financing of terrorism and establishes a single financial intelligence unit to which all covered institutions report. Additionally, Ecuador should become a party to the UN International Convention for the Suppression of Terrorist Financing.

The Arab Republic of Egypt

Egypt is neither a regional financial center nor a major center for money laundering. It has no offshore financial sector, and cumbersome financial regulations make it an unattractive place through which to move large amounts of hard currency. Egypt is still largely a cash economy, and many financial transactions do not enter the banking system at all. As a result of the passage of Egypt's first anti-money laundering law, which criminalized the laundering of proceeds derived from trafficking in narcotics and numerous other crimes, seizures of currency in drug related cases in 2003 rose by 50 percent to over three million Egyptian pounds (approximately $487,000).

Under-invoicing of imports and exports by Egyptian businessmen is a relatively common practice. The primary goal for businessmen appears to be avoidance of taxes and customs fees. It is unclear to what

extent price manipulation may be used for laundering the proceeds of other crimes. Worker remittances also form a potential area for financial transactions outside the regulated formal financial system. Numerous Egyptian expatriates working in the Gulf and elsewhere send earnings back to Egypt. Some of their remittances may be sent through couriers and informal channels such as a value transfer system like hawala rather than through the banking system, due to lack of trust or lack of familiarity with banking procedures and the lower transaction costs and more favorable exchange rates.

In 2001, the Central Bank of Egypt (CBE) and other financial regulatory bodies issued a number of anti-money laundering instructions, including "know your customer" and "suspicious transaction reporting" (STR) requirements. Nevertheless, the Financial Action Task Force (FATF) placed Egypt on its noncooperating countries or territories (NCCT) list in June 2001, citing inter alia, the country's lack of a law specifically criminalizing money laundering. Following up the FATF designation, the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) issued an advisory that instructed all U.S. financial institutions to "give enhanced scrutiny" to all transactions involving Egypt.

Since then, Egypt has taken a number of measures to respond to the FATF's concerns. Perhaps its most noteworthy improvement occurred in May 2002 when Egypt passed its "anti-money laundering law" (law no. 80 of 2002). The law, which closely parallels FATF guidelines, criminalizes the laundering of funds from narcotics trafficking, prostitution and other immoral acts, terrorism, antiquities theft, arms dealing, organized crime, and numerous other activities. It legislates the "know your customer" policy, requiring banks to keep all records for five years; places STR requirements on the full range of financial institutions; and prohibits the opening of numbered or anonymous financial accounts.

The law also provides for the creation of a financial intelligence unit (FIU) that officially began operating on March 1, 2003. It is an independent entity that was established by presidential decree with its own budget and staff. The anti-money laundering law gives the FIU (the Money Laundering Combating Unit/MLCU) full power to examine all STRs and conduct investigations with the assistance of counterpart law enforcement agencies, including the Ministry of Interior, as it sees fit. The MLCU is progressing rapidly and is starting to perform many of the duties of an FIU, but still lacks the necessary experience and training to be operating at full speed. Since its creation, the MLCU has received 290 STRs, most of them from financial institutions. The rest were filed by supervisory authorities, individuals, and foreign FIUs.

Presidential Decree No. 164/2002, issued in June 2002, delineates the structure, functions, and procedures of the MLCU. The head of the unit has been appointed. The unit handles implementation of the new law, including publishing the executive directives. The unit takes direction from a five-member council, headed by the Assistant Minister of Justice for Legal Affairs. Other members include the chairman of the Capital Market Authority, the Deputy Governor of the Central Bank of Egypt, and a representative from the Egyptian Banking Federation.

In June 2003 Egypt's People's Assembly passed an amendment to Article 17 of Egypt's anti-money laundering legislation, closing a loophole that appeared to offer overly broad immunity from punishment for certain money laundering-related offenses if the defendant(s) turned state's evidence.

In June the Executive Regulations of the Anti-Money Laundering Law were issued Prime Ministerial Decree no. 951/2003. The regulations provided the legal basis by which the FIU is given its authority. They spell out the predicate crimes associated with money laundering, establish a board of trustees to govern the FIU, define the role of supervisory authorities and financial institutions, and allow for the exchange of information with other countries to combat money laundering. The introduction of the regulations, among other things, lowered the threshold for declaring foreign currency at borders from the equivalent of approximately $20,000 to $10,000, and extends the declaration requirement to

travelers leaving as well as entering the country. However, the authorities have yet to enforce this provision.

The Government of Egypt (GOE) has shown some willingness to cooperate with foreign authorities in criminal investigations. It acted promptly on asset-freezing requests from the United States. Also, Egypt is monitoring operations of domestic nongovernmental organizations and charities to forestall funding of terrorist groups abroad.

The United States and Egypt signed a Mutual Legal Assistance Treaty in May 1998. Egypt is a party to the 1988 UN Drug Convention. It is a signatory to the 1999 UN International Convention for the Suppression of the Financing of Terrorism. The GOE has signed legal and judicial cooperation agreements with the United Arab Emirates, Bahrain, Morocco, Hungary, Jordan, France, Kuwait, Tunisia, Iraq, and Algeria. It has signed other international agreements, including extradition agreements and mutual judicial recognition agreements with Italy, Turkey, and Arab League countries. Egypt is also a party to a number of international conventions aimed at blocking terrorists' access to funds.

Because of its own historical problems with domestic terrorism, the GOE is eager for closer international cooperation to counter terrorism and terrorist finance. For the past decade it has had restrictions on receipt of or disbursement of financial donations from Egyptian NGOs to or from foreign entities. Egyptian authorities have cooperated with U.S. efforts to seek and freeze terrorist assets, circulating to each of their financial institutions the list of Specially Designated Global Terrorists designated by the United States pursuant to Executive Order 13224. While the mechanism established in the GOE to deal with terrorist financing is new and there are some bureaucratic obstacles, the GOE is working with the U.S. and other countries via United Nations resolutions to combat the financing of terrorism.

Egypt is taking steps to address domestic and international concerns regarding deficiencies in its banking system and monetary policy. Egypt's anti-money laundering agencies must still overcome some coordination issues. Egypt has passed a money laundering law and accompanying regulations, and it is working closely with the FATF on the steps it must take in order to be removed from the NCCT list. The GOE is eager to increase international cooperation in these areas. Egypt should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

El Salvador

Located on the Pacific coast of the Central American isthmus, El Salvador has one of the largest and most developed banking systems in Central America. The most significant financial contacts are with neighboring Central American countries, as well as the United States, Mexico, and the Dominican Republic. The January 2001 adoption of the U.S. dollar as legal tender, together with the size and growth rate of the financial sector, makes the country a potentially fertile ground for money laundering. In 2003, more than $2 billion in remittances will likely be sent to El Salvador through the financial system. Most will be sent from Salvadorans working in the United States to family members. Additional remittances flow back to El Salvador via other methods such as visiting relatives and regular mail.

Most money laundering is related to narcotics trafficking, and, to a lesser degree, kidnapping, corruption, counterfeiting, fraud, and contraband. Criminal proceeds laundered in El Salvador are primarily from domestic criminal activity. There is no significant black market for smuggled goods. Most money laundering occurs through fund transfers between local banks and banks in the United States, the Dominican Republic, and Europe. El Salvador's financial institutions engage in currency transactions that include large amounts of U.S. currency and could involve the proceeds of

international narcotics trafficking. It is believed that money laundering proceeds may be controlled by narcotics-traffickers or organized crime.

Decree 498 of 1998, the "Law Against Laundering of Money and Assets," criminalizes money laundering related to narcotics trafficking and any other serious crimes. The law also establishes the Unidad de Investigación Financiera (UIF), El Salvador's financial intelligence unit (FIU), which is located within the Attorney General's Office. The UIF has been operational since January 2000. The Policía Nacional Civil (PNC) and the Central Bank also have their own anti-money laundering units.

By law, financial institutions, intermediaries and alternative remittance systems must identify their customers, maintain records for a minimum of five years, train personnel in identification of money and asset laundering, and establish internal auditing procedures. Also, the aforementioned institutions must report all suspicious transactions and transactions that exceed approximately $57,000 to the UIF. The law includes a safe harbor provision to protect all persons who report transactions and cooperate with law enforcement authorities and "banker negligence" provisions making individual bankers responsible for money laundering at their institutions. Bank secrecy laws do not apply to money laundering investigations.

To address the problem of international transportation of criminal proceeds, Salvadoran law requires all incoming travelers to declare the value of goods, cash, or monetary instruments they are carrying in excess of approximately $11,400. Falsehood, omission, or inaccuracy on such a declaration is grounds for retention of the goods, cash or monetary instruments, and the initiation of criminal proceeding. If, following the end of a 30-day period, the traveler has not proved the legal origin of said property, the Salvadoran authorities have the authority to confiscate it. The UIF has proposed legal reforms to require all travelers, both entering and departing from El Salvador, to report the value of goods or cash in excess of approximately $11,400.

Since January 1, 2003, there have been no arrests for money laundering or terrorist financing. However, two persons were prosecuted on charges of money laundering in 2003. One was convicted and sentenced to serve a prison term of seven years. This was the first conviction for money laundering under the 1998 law.

The Government of El Salvador (GOES) has established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related and other assets of serious crimes, including the financing of terrorism. The UIF and PNC have adequate police powers to trace and seize assets, but the PNC lacks the resources to do so. If a legitimate business was established using proceeds from criminal activities, it may be seized. Forfeited money laundering proceeds are deposited in a special fund used to support law enforcement, drug treatment and prevention, and other related government programs, while funds forfeited as the result of other criminal activity are deposited into general government revenues. Law enforcement agencies are allowed to use certain seized assets while a final sentence is pending. In 2003, the dollar amount of assets seized and forfeited totaled $4.23 million, mostly derived from narcotics trafficking. This amount was almost 10 percent greater than the $3.85 million seized and forfeited in 2002, and eight times greater than the $508,712.14 seized and forfeited in 2001. There exists no legal mechanism to share seized assets with other countries.

Salvadoran law currently provides only for the judicial forfeiture of assets upon conviction (criminal forfeiture), and not for civil or administrative forfeiture. A draft law under consideration to reform Decree 498 includes a proposal to expand the existing law to include certain types of civil forfeiture of assets. The proposed law would also incorporate the Financial Action Task Force (FATF) Eight Special Recommendations on Terrorist Financing, and include the OAS Inter-American Drug Abuse Control Commission's model regulatory reforms for the laundering of assets.

El Salvador's anti-money laundering law covers all serious crimes, including terrorism and terrorist financing. There is no evidence that any charitable or nonprofit entity has been used as a conduit for

terrorist financing. The GOES has the authority to freeze and seize suspected assets associated with terrorists and terrorism. The GOES has provided financial institutions with the names of all individuals and entities listed by the UNSCR 1267 Sanctions Committee. These institutions are required to search for any assets related to the individuals and entities on the UNSCR 1267 Sanctions Committee's lists. Bank accounts belonging to a female companion of a former Red Brigade terrorist arrested in Argentina in 2002 have been frozen. Both had previously resided in El Salvador. The woman's accounts, totaling $22,000, were frozen pending the completion of Italy's investigation into the former Red Brigade member.

El Salvador has signed several agreements of cooperation and understanding with supervisors from other countries to facilitate the exchange of supervisory information, including permitting on-site examinations of banks and trust companies operating in El Salvador. El Salvador is a party to the Treaty of Mutual Legal Assistance in Criminal Matters signed by the Republics of Costa Rica, El Salvador, Honduras, Guatemala, Nicaragua, and Panama. Salvadoran law does not require the UIF to sign agreements in order to share or provide information to other countries. The GOES signed the Inter-American Convention on Mutual Assistance on Criminal Matters, which obligates parties to cooperate in tracking and seizing assets. The UIF is also legally authorized to access the databases of public or private entities. The GOES has cooperated with foreign governments in financial investigations related to narcotics, money laundering, terrorism, terrorism financing, and other serious crimes. In 2003, the UIF cooperated in important cases with the U.S. Government, including 17 investigations involving 220 persons or entities related to terrorist activities.

El Salvador is a member of the OAS Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD). El Salvador hosted the third regular session of the OAS Inter-American Committee Against Terrorism in January 2003, and assumed leadership of the committee. In March 2003, El Salvador became a member of the Caribbean Financial Action Task Force. The UIF joined the Egmont Group in June 2001. The GOES is party to the OAS Inter-American Convention Against Terrorism, and ratified the UN International Convention for the Suppression of the Financing of Terrorism on May 15, 2003. On December 10, 2003, El Salvador signed the UN Convention Against Corruption. El Salvador is party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime, which entered into force internationally on September 29, 2003. El Salvador is also a signatory to the Central American Convention for the Prevention and Repression of Money Laundering Crimes Related to Illicit Drug Trafficking and Related Crimes.

The growth of El Salvador's financial sector, the increase in narcotics trafficking, the large volume of remittances and the use of the U.S. dollar as legal tender make El Salvador vulnerable to money laundering. The GOES should continue to expand and enhance its anti-money laundering policies and strengthen its ability to seize and share assets. The GOES should criminalize the support and financing of terrorists and terrorist organizations.

Eritrea

Eritrea is a small country that has a developing financial system with limited integration with international markets and financial institutions. Its economy remains largely cash-based. There is no indication that it is a significant haven for money laundering activities. However, due to its limited regulatory structure and its proximity to regions where terrorist and criminal organizations operate, Eritrea is vulnerable to money laundering related activities.

Currently, no foreign banks are authorized to operate in the country. Information generated by the financial sector is limited and closely held. All Eritrean banks are government-owned. One private bank is in the process of being established. The banks and financial institutions are slowly implementing computerized record keeping systems. This system is designed to supply standardized

reports that will eventually allow for more effective regulation by banking authorities. Central Bank regulations act as a disincentive for holders of foreign currency to exchange it into local currency through licensed and regulated exchange houses. As a result, unauthorized money changers are thought to process most foreign exchange transactions. Much of this foreign currency is transported as cash by members of Eritrea's far-flung Diaspora who bring the money to support their relatives and invest in real estate.

Eritrea is a party to the 1988 UN Drug Convention. As Eritrea's financial system becomes more integrated with international markets, the government should put a priority on implementing anti-money laundering legislation and criminalizing terrorist financing. Eritrea should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and to all relevant conventions relating to terrorism.

Estonia

Estonia has one of the most transparent, developed banking systems among the European Union accession countries. The International Monetary Fund and international risk rating agencies closely monitor Estonia's banking system. Estonia has adopted the universal banking model, which enables credit institutions to participate in a variety of activities such as leasing, insurance, and securities. Transnational and organized crime groups are attracted to the territory due to its proximity to the Russian border. However, there have been no reported large-scale money laundering operations for the purpose of narcotics trafficking or terrorist financing in Estonia.

In 1996, Estonia signed the Riga Declaration on Money Laundering. Money laundering was added as a criminal offense to the Criminal Code in 1999, at the same time that the Money Laundering Prevention Act came into force. Money laundering is punishable with a maximum imprisonment term of ten years. Amendments to the Money Laundering Prevention Act and Penal Code (which replaced the Criminal Code), took effect in September 2002. The amendments make money laundering committed by a legal entity a punishable crime with a maximum penalty of the compulsory liquidation of the entity.

The Money Laundering Prevention Act entered into force in 1999. According to the Act, credit and financial institutions are required to identify all individuals or representatives who carry out non-cash transactions above 200,000 kroons (approximately $16,000), or cash transactions above 100,000 kroons (approximately $8,000). Estonia's legislation requires the credit or financial institutions to report suspicious or unusual transactions to the Information Bureau of the Police Board, Estonia's financial intelligence unit (FIU).

On December 3, 2003, the Estonian Parliament adopted amendments to the Money Laundering and Terrorism Financing Prevention Act (MLTFPA), formerly the Money Laundering Prevention Act. The MLTFPA expands the obligated reporting entities to include lawyers, accountants, tax advisors, notaries, currency exchange companies, money transmitters, lottery/gambling institutions, real estate firms, and dealers in high-value goods. The FIU's authority is extended to cover the supervision of those obliged reporting entities that are not covered by the supervision of the Financial Supervision Authority. The new amendments take effect on January 1, 2004.

The Estonian Financial Supervisory Authority (FSA), which unites three previous supervisory authorities (the Banking Supervision Department of the Bank of Estonia, the Securities Inspectorate, and the Insurance Supervisory Agency), began operations in January 2002. The FSA is responsible for monitoring and directing credit and financial institutions. It monitors compliance with reporting requirements and can apply administrative remedies for noncompliance.

In June 2002 the FSA approved a new guideline, "Additional Measures to Prevent Money Laundering in the Credit and Financial Institutions." This guideline conforms to the FATF's "Guidance for

Financial Institutions in Detecting Terrorist Financing Activities." The Estonian Banking Association (EBA) has also issued more detailed instructions regarding information and documentation when opening an account or performing a transaction; the documents and data required in relations with foreign legal persons, with special attention to those founded in offshore regions; and a listing of red flags useful when opening an account, performing transactions, and analyzing transactions.

Estonia established its FIU within the administration of the Police Board in 1999. Currently, the FIU has 6 positions. The FIU's authority includes the ability to conduct misdemeanor procedures and issue administrative acts against violations. In 2001, the FIU received 1,829 suspicious transaction reports; in 2002 it received 1,073 reports, and up to October 22, 2003, it received 987. The Economic Crime Department of the Central Criminal Police (of which the FIU is scheduled to become a part in 2004) is responsible for investigating money laundering cases. The Tax Fraud Investigation Center was established in the structure of the Tax Board for investigation of tax crimes and other crimes connected with money laundering in 2001.

The MLTFPA contains provisions that meet the requirements for the prevention of terrorist financing pursuant to United Nations (UN) and European Union directives, including the obligation to report suspicion of terrorist financing, (not just money laundering), and authorizing the FIU to seize assets in terrorist financing cases just as it would for a money laundering case. The amendments allow the FIU to freeze a transaction for two working days, and if the legal origin of the money is not proven, the FIU may seize the assets for up to 10 working days while it seeks a court's judgment. The judicial system has the ability to seize the assets of suspected terrorists for an indefinite amount of time.

The FIU may exchange information with its counterparts, provided the information is used for intelligence purposes only. Bank secrecy-protected information that is to be used as evidence in court may only be shared when a mutual assistance agreement is in place. A Mutual Legal Assistance Treaty is in force between the United States and Estonia.

Estonia is a member of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). Estonia has also endorsed and adheres to the Basle Committee's "Core Principles for Effective Banking Supervision" and is an active member of the Offshore Group of Banking Supervisors. The Information Bureau is a member of the Egmont Group and joined the European Union's financial intelligence units' net (FIU.NET). The Government of Estonia (GOE) is a party to the 1988 UN Drug Convention, and in August 2000, ratified the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. In October 2001, the GOE signed a cooperation agreement with Europol, and is a party to the UN Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism.

The GOE has been active in establishing agencies, amending current laws, and drafting new ones in its effort to strengthen its anti-money laundering regime; it should continue these efforts and enhancements. Estonia should criminalize terrorist financing. The GOE should make every endeavor to enforce best practices within its financial community.

Ethiopia

Due primarily to its archaic financial systems and pervasive government controls, Ethiopia is not considered a regional financial center. Ethiopia's location within the Horn of Africa region make it vulnerable to money laundering related activities perpetrated by transnational criminal organizations, terrorists, and narcotics-trafficking organizations. Sources of illegal proceeds include narcotics trafficking, smuggling, trafficking in persons, arms trafficking, trafficking of animal products, and corruption. Since government foreign exchange controls limit possession of foreign currency, most of the proceeds of contraband smuggling and other crimes are not laundered through the official banking

system. High tariffs also encourage customs fraud and trade-based money laundering. Reports indicate that alternative remittance systems, particularly hawala, are also widely used by immigrant communities living within the country. Money laundering is a punishable offense in Ethiopia.

The country has an underdeveloped financial infrastructure, containing approximately six small private banks as well as three government banks. Currently, there are no foreign banks that operate within the country. The Central Bank has mandated that banks report suspicious transactions but the supervision capability is limited, as most records and communications are not yet computerized. Foreign exchange controls limit possession of foreign currency, and the government controls the exchange of foreign currency into local currency. There are no money laundering controls applied to nonbanking financial institutions or to intermediaries. The Government of Ethiopia (GOE) proposed draft terrorist finance legislation, which is under preliminary review in Parliament. The Central Bank has authority to identify, freeze, and seize terrorist finance related assets. The Central Bank routinely circulates to its financial institutions the lists of entities that have been included on the UN 1267 sanctions committee's list. During 2003, no assets linked to these entities have been identified.

Ethiopia is a party to the 1988 UN Drug Convention. Ethiopia should ratify the UN Convention against Transnational Organized Crime. Ethiopia should pass anti-money laundering and antiterrorist finance legislation that adhere to international standards. Ethiopia should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Fiji.

Money laundering does not appear to be a significant problem in Fiji, although Fiji may be used as a drug transshipment point. Since 2002, there was an on-going money laundering investigation involving a foreign exchange dealer and in 2003, investigations were initiated involving overseas funds remittances.

Money laundering is criminalized under the Proceeds of Crime Act of 1997. In August 2002, Fiji also established an anti-money laundering legislation working group to study needed enhancements to legislation. As a result, a new Financial Transactions Reporting Act and amendments to the Proceeds of Crime Act and Mutual Assistance in Criminal Matters Act are in final draft stage and will be tabled before Parliament by the first quarter of 2004.

The Reserve Bank of Fiji (RBF) has issued anti-money laundering guidelines for licensed financial institutions. These guidelines require licensed financial institutions to develop customer identification procedures, keep transaction and other account records for seven years, and report suspicious financial transactions to both the RBF and the anti-money laundering unit in the Fiji Police Force's Criminal Investigation Department. These guidelines went into effect in January 2001. On-site examination of licensed banks and other deposit taking institutions for compliance with anti-money laundering laws and guidelines are reportedly ongoing. In September 2002, policy guidelines were issued to authorized foreign exchange dealers and moneychangers, which included requirements to comply with anti-money laundering measures. Also in 2002, the Fiji Police, with input from the RBF and the Association of Banks in Fiji, issued a standardized suspicious transaction reporting form. As a result, more than 100 suspicious transaction reports were filed from January to August 2003. In July 2003, a Financial Intelligence Unit (FIU) was established to analyze and disseminate the suspicious transaction reports.

The Permanent Secretary for Justice, along with senior representatives from the Attorney General's Office, the Office of the Director of Public Prosecutions, the Office of the Commissioner of Police, the RBF, and the Fiji Revenue and Customs Authority compose the Anti-Money Laundering Officials Committee, established in 1998, which meets once a month to discuss the implementation of anti-money laundering measures in Fiji.

Fiji is a member of the Asia/Pacific Group on Money Laundering, a FATF-style regional body. In February 2002, the APG conducted a mutual evaluation of Fiji. Fiji is a party to the 1988 UN Drug Convention.

A Counter-Terrorism Officials Group was established in February 2003. The Group drafted model antiterrorism legislation for Pacific Island countries. Fiji should criminalize terrorist financing and continue to develop its anti-money laundering regime. Fiji should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime.

Finland

Finland is not a regional financial or money laundering center. A "Corruption Perceptions Index" survey taken by Transparency International in 2003, which compiles the perception of corruption rather than actual statistics, listed Finland in first place as the country perceived around the world to be the least corrupt. However, Finnish authorities are concerned about possible money laundering by organized crime, as well as money laundering arising from fraud or other economic crimes.

In 1994, Finland enacted legislation criminalizing money laundering related to all serious crimes. The Act of Preventing and Clearing Money Laundering (Money Laundering Act), which passed in 1998, compels credit and financial institutions, investment and fund management companies, insurance brokers and insurance companies, real estate agents, pawn shops, betting services, casinos, and most nonbank financial institutions (excluding accountants and lawyers) to report suspicious transactions. Management companies and custodians of mutual funds were added as covered entities in the Money Laundering Act in 1999. Apartment rental agencies, auditors, auctioneers, lawyers, accountants, and dealers in high value goods were added when amendments to the Act came into force in 2003. Also included are the businesses and professions that practice other payment transfers in the field of financing that are not referred to in the Credit Institutions Act, such as hawala. According to the Money Laundering Act, an obliged party must identify customers, exercise due diligence and report suspicious activity to the Money Laundering Clearing House (MLCH), Finland's financial intelligence unit or FIU.

In December 2002 the Parliament accepted amendments to the Penal Code which came into force on April 1, 2003. The amendments included the differentiation of penalty provisions concerning money laundering and traditional receiving offense in order to clarify the law where some actions could be punishable on the basis of both the receiving offense and money laundering penalty provisions, and to emphasize in legislation the criminality of money laundering and its relevance to serious organized crime. Prior to the amendments, the definition of money laundering was limited only to property gained through crime. The new amendments expand the definition to include negligence and the usage or transmission of property gained through an offense and its proceeds or property replacing such property, as well as bringing under the law those who assist in activities of concealment or laundering. With the differentiation of money laundering from the traditional receiving offense, the receiving offense penal scale now corresponds to the basic penal scale of other economic offenses, and the money laundering penal scale is set to meet international standards, with sanctions of up to six years of imprisonment.

The MLCH, which was established under the National Bureau of Investigation in March 1998, receives and investigates suspicious transaction reports (STRs) from obligated reporting institutions. The MLCH has special authority to start investigations on STRs even though the basis of a pre-trial investigation has not yet been established. The FIU has the ability to freeze a transaction for up to five business days in order to determine the legitimacy of the funds. In late 2003 the MLCH hosted a regional Nordic-Baltic conference on money laundering.

The Finnish police have investigated 348 STRs in 1999; 1,109 in 2000; 2,796 in 2001; 2,718 in 2002; and 2,020 as of September 2003. The significant increase in STR filings may be attributed to attempts to launder funds as Finland transitioned from the markka in 1999 to the euro on January 1, 2002. A decrease of 230 STRs received from currency exchange companies in 2002 is attributed to the changeover to the euro.

Between 1994 and 2002, the National Bureau of Investigation forwarded 496 reports concerning suspicious transactions to pre-trial (criminal) investigation. In 2002, criminal investigations were started for 114 reports. The most common offenses were tax fraud (25 percent), narcotics offenses (13 percent), fraud (12 percent) and receiving offense (11 percent). Money laundering represents about 10 percent of all financial crimes in Finland, and approximately 75 percent of those cases have links to other countries, especially Russia and Estonia. By the end of 2002 the pre-trial investigation was still on going in 209 cases, with an additional 18 transferred to other countries.

In January 2003 the Parliament accepted amendments to the Money Laundering Act bringing it in line with the Financial Action Task Force's (FATF) Eight Special Recommendations on Terrorist Financing, the UN International Convention for the Suppression of the Financing of Terrorism; and the amendments to the EU Directive on Money Laundering. The amendments, which came into force in the spring of 2003, extend the system of money laundering prevention to include suspected terrorist financing.

Finland signed a tax treaty with the United States in September 1989, replacing a previous treaty signed in 1970. The current treaty has provisions to exchange information for investigative purposes.

Finland is a member of the FATF and the Council of Europe. The MLCH is a member of the Egmont Group. Finland also co-operates with the European Union, Europol, the United Nations, Interpol, the Baltic Sea Task Force, the Organization for Economic Co-operation and Development, and other international agencies designed to combat organized crime. Finland is a party to the 1988 UN Drug Convention and has signed the UN Convention against Transnational Organized Crime. Finland is also a party to the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of Proceeds from Crime. Finland became a party to the UN International Convention for the Suppression of the Financing of Terrorism on June 28, 2002.

Finland should continue to enhance its anti-money laundering/antiterrorist financing regime. Finland should adopt reporting requirements for the cross-border movement of currency and financial instruments. If it has not already done so, Finland should specifically criminalize the financing and support of terrorism and terrorists.

France

France remains an attractive venue for money laundering because of its sizable economy, political stability, and sophisticated financial system. Common methods of laundering money in France include the use of bank deposits, foreign currency and gold bullion transactions, corporate transactions, and purchases of real estate, hotels, and works of art. A 2002 Parliamentary Report states that, increasingly, Russian and Italian organized crime networks are using the French Riviera to launder assets (or invest those previously laundered) by buying up real estate, "a welcoming ground for foreign capital of criminal origin." The report estimates that between seven and 60 billion euros of dirty money have already been channeled through the Riviera.

The Government of France (GOF) first criminalized money laundering related to narcotics trafficking in 1987 (Article L-627 of the Public Health Code). In 1988, the Customs Code was amended to incorporate financial dealings with money launderers as a crime. In 1990, the obligation for financial institutions to combat money laundering came into effect with the adoption of the Monetary and Financial Code (MFC), and France's ratification of the 1988 UN Drug Convention. In 1996 the

criminalization of money laundering was expanded to cover the proceeds of all crimes. Even though the law made money laundering in itself a general offense, French courts do not allow joint prosecution of individuals on both money laundering charges and the underlying predicate offense, on the grounds that they constitute the same offense.

The amendment to the law in 1996 also obligates insurance brokers to report suspicious transactions. In 1998, the obligated parties were increased to include nonfinancial professions (persons who carry out, verify or give advice on transactions involving the purchase, sale, conveyance or rental of real property). Then in 2001, the list of professions subject to suspicious transaction reporting requirements expanded to include legal representatives, casino managers and persons customarily dealing in or organizing the sale of precious stones, precious materials, antiques, or works of art. The law now covers banks, moneychangers, public financial institutions, estate agents, insurance companies, investment firms, mutual insurers, casinos, notaries, and auctioneers and dealers in high-value goods. As a member of the European Union (EU), France is subject to EU money laundering directives, including the revised Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering (Directive 2001/97/EC), that will be enacted into domestic French legislation. The GOF has enacted legislation that codifies the Financial Action Task Force (FATF) Forty Recommendations concerning customer identification, record keeping requirements, suspicious transaction reporting, internal anti-money laundering procedures, and training for financial institutions.

Decree No. 2002-770 of May 3, 2002, addresses the functioning of France's Liaison Committee against the Laundering of the Proceeds of Crime. This committee is co-chaired by the French financial intelligence unit (FIU), TRACFIN (the unit for Treatment of Information and Action Against Clandestine Financial Circuits) and the Justice Ministry. It will comprise representatives from reporting professions and institutions, regulators, and law enforcement authorities, with the purpose to supply professions required to report suspicious transactions with better information and to make proposals in order to improve the anti-money laundering system.

TRACFIN is responsible for analyzing suspicious transaction reports (STRs) that are filed by French financial institutions and nonfinancial professions. TRACFIN is a part of FINATER, a group created within the French Ministry of the Economy, Finance, and Industry in September 2001, in order to gather information to fight terrorist financing. The French FIU may exchange information with foreign counterparts that observe similar rules regarding reciprocity and confidentiality of information. TRACFIN works closely with the Ministry of Interior's Central Office for Major Financial Crimes (OCRGDF), which is the main point of contact for Interpol and Europol in France.

TRACFIN received 2,537 suspicious transaction reports in 2000, 3,598 in 2001 and 6,896 in 2002. The changeover from French francs to the euro generated many additional reports in 2002, which accounts for the significant increase. In addition approximately 200 separate reports on transactions were sent to TRACFIN relating possible terrorist financing activity. Approximately 67 percent of STRs are sent from the banking sector. A total of 226 cases were referred to the judicial authorities in 2001, which resulted in 58 convictions of money laundering, and 291 cases were referred in 2002 which resulted in 14 criminal prosecutions.

Since 1986, French antiterrorist legislation has provided for the prosecution of those involved in the financing of terrorism under the more severe offense of complicity in the act of terrorism. However, in order to strengthen this provision, the Act of November 15, 2001 introduced several new characterizations of offenses, specifically including the financing of terrorism. The offense of financing terrorist activities (art. 41-2-2 of the Penal Code) is defined according to the UN International Convention for the Suppression of the Financing of Terrorism and is subject to ten years' imprisonment and a fine of 228,600 euros. The Act also includes money laundering as an offense in

connection with terrorist activity (article 421-1-6 Penal Code), punishable by ten years' imprisonment and a fine of 62,000 euros.

An additional penalty of confiscation of the total assets of the terrorist offender has also been implemented. Accounts and financial assets can be frozen through both administrative and judicial measures. The GOF also passed the PERBEN II Law, which took effect in January 2004. This new law will make it easier for France to arrest and extradite suspects and cooperate with other judicial authorities in the EU.

French authorities moved rapidly to freeze financial assets of organizations associated with al-Qaida and the Taliban, and took the initiative to put the two groups on the UN 1267 Sanctions Committee consolidated list. France takes actions against non-Taliban and non-al-Qaida-related groups in the context of the EU-wide "clearinghouse" procedure. Within the Group of Eight, which France chaired in 2003, France has sought to support and expand efforts targeting terrorist financing. Bilaterally, France has worked to improve the capabilities of its African partners in targeting terrorist financing. On the operational level, French law enforcement cooperation targeting terrorist financing continues to be good.

TRACFIN is a member of the Egmont Group and represents the European Union FIUs at that group. TRACFIN has information-sharing agreements with 21 FIUs in Australia, Italy, the United States, Belgium, Monaco, Spain, the United Kingdom, Mexico, the Czech Republic, Portugal, Finland, Luxembourg, Cyprus, Brazil, Colombia, Greece, Guernsey, Panama, Argentina, Andorra, and Switzerland.

France is a member of the FATF and a Cooperating and Supporting Nation to the Caribbean Financial Action Task Force. France is a party to the 1988 UN Drug Convention; the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime; and the UN International Convention for the Suppression of the Financing of Terrorism. In October 2002, France ratified the UN Convention against Transnational Organized Crime. The United States and France have entered into a Mutual Legal Assistance Treaty (MLAT), which came into force in 2001. Through MLAT requests and by other means, the French have provided large amounts of data to the United States in connection with terrorist financing.

France has established a comprehensive anti-money laundering regime. The GOF should build upon this regime by expanding suspicious transaction reporting requirements to auditors, in line with the revised EU Directive on money laundering. The GOF should also continue its active participation in international organizations to combat the domestic and global threats of money laundering and terrorist financing.

Gabon

Gabon is not a regional financial center. The Bank of Central African States (BEAC) supervises Gabon's banking system. BEAC is a regional Central Bank that serves six countries of Central Africa. According to a 2003 letter from the Government of Gabon (GOG) to the UN Counter Terrorism Committee, in matters concerning suspicious financial transactions, banks are bound by the instructions of the Ministry of Economic and Financial Affairs. The actual monitoring of financial transactions is conducted by the Economic Intervention Service that harmonizes the regulation of currency exchanges in the member States of the Central African Economic and Monetary Community (CEMAC).

On November 20, 2002, the BEAC Board of Directors approved draft anti-money laundering and counterterrorist financing regulations that would apply to banks, exchange houses, stock brokerages, casinos, insurance companies, and intermediaries such as lawyers and accountants in all six member countries. The BEAC regulations treat money laundering and terrorist financing as criminal offenses.

The regulations would also require banks to record and report the identity of customers engaging in large transactions. The threshold for reporting large transactions would be set at a later date by the CEMAC Ministerial Committee at levels appropriate to each country's economic situation. Financial institutions would have to maintain records of large transactions for five years.

The regulations would require financial institutions to report suspicious transactions. Under the regulations, each country would establish a National Agency for Financial Investigation (NAFI) responsible for collecting suspicious transaction reports. Bankers and other individuals responsible for submitting suspicious transaction reports will be protected by law with respect to their cooperation with law enforcement entities. If a NAFI investigation were to confirm suspicions of terrorist financing, the Gabonese government could freeze and seize the related assets. The NAFI could cooperate with counterpart agencies in other countries.

Gabon has signed, but not yet ratified, both the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism.

Gabon should work with the BEAC to establish a viable anti-money laundering and counterterrorist financing regime. Gabon should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

The Gambia

The Gambia is not a regional financial center, although it is a regional re-export center. Goods and capital are freely and legally traded in the Gambia, and, as is the case in other re-export centers, smuggling of goods occurs.

The ECOWAS community of states, of which The Gambia is a member, in 2000 created the GIABA, an intergovernmental action group against money laundering, designed to improve cooperation in the fight against money laundering between member states. The GIABA is working on a law to create financial intelligence units in each of the eight West African Economic Monetary Union (WAEMU) countries so that they will be able to share information.

Banks in the Gambia are supervised by the Central Bank. The Central Bank receives weekly activity reports from all in-country financial institutions, and these reports must include information on any suspicious transactions. Banks and other financial institutions are required to know, record, and report the identities of customers engaging in transactions over the equivalent of $10,000. Central Bank officials perform on-site examinations of all banks and trust companies operating in the Gambia on a yearly basis. If necessary, Central Bank officials can examine a bank or trust company more than once a year.

The Government of Gambia (GOG) recently passed the Money Laundering Act of 2003. The Act states that money laundering is a criminal offense and establishes narcotics trafficking as well as blackmail, counterfeiting, extortion, false accounting, forgery, fraud, illegal deposit taking, robbery, terrorism, theft and insider trading as predicate offenses. Furthermore, the law requires banks and other financial institutions to know, record, and report the identity of clients engaging in significant and/or suspicious transactions. Even though individual banks may have their own requirements to keep documents longer, the law requires them to maintain records for at least six years. Under the Money Laundering Act of 2003, terrorism is an offense consistent with UNSCR 1373. The Act also empowers the GOG to identify and freeze assets of a person suspected of committing a money laundering offense.

The Central Bank has circulated the U.S. Government list of terrorists designated under E.O. 13224 among banks and other financial institutions in the Gambia. There have been no arrests and/or prosecutions for money laundering or terrorist financing since January 2003. Gambia is a party to the

1988 UN Drug Convention and has signed and ratified the UN Convention against Transnational Organized Crime. The Gambia is also a party to the UN International Convention for the Suppression of the Financing of Terrorism.

The Gambia should examine its re-export sector to determine whether or not it is being used to launder criminal proceeds. The GOG should also expand its anti-money laundering legislation to include a comprehensive range of predicate offenses and should take steps to develop a financial intelligence unit.

Georgia

Although Georgia is not considered an important regional financial center, in past years the international community has raised concerns regarding the Government of Georgia's (GOG) lack of an anti-money laundering regime. In Georgia, the sources of laundered money are primarily corruption, financial crimes and smuggling, rather than narcotics-related proceeds. Smuggling of goods across international borders is one of the country's most serious problems, given the existence of thriving black markets in Ergneti (near the uncontrolled territory of South Ossetia), Red Bridge (on the border with Azerbaijan), and Abkhazia (breakaway region bordering Russia on the Black Sea coast). Law enforcement officials provide protection to smugglers, instead of prosecuting them, helping maintain the shadow economy which makes up 90 percent of Georgia's economic activity (based on an estimate by the Transnational Crime and Corruption Center). A new government came into power in November 2003. The new Administration has launched several investigations relating to financial misdeeds undertaken by former members of the Georgian government.

At the urging of the international community the GOG has taken some steps. The lead was taken by the National Bank of Georgia, which was tasked by former President Shevardnadze to draft the Anti-Money Laundering Law. On June 6, 2003, President Shevardnadze signed the Anti-Money Laundering Law (AML Law) passed by the Georgian Parliament. As mandated by the newly enacted law (which also included an article concerning anti terrorist financing), Georgia created a Financial Monitoring Service (FMS) within the National Bank of Georgia on July 16, 2003. The FMS is tasked with creating a system for Suspicious Transaction Reporting (STR). The FMS is to begin receiving reports from monitored entities in January 2004. Also beginning in January 2004, the FMS is embarking on the construction of an IT system to collect and analyze data on suspicious financial transactions.

Although the AML Law in Georgia was enacted in June 2003 and entered into force on January 1, 2004 (the date selected to coincide with the start-up of the FMS), it still requires some serious revisions as noted by the Council of Europe's recommendations to the Georgian Government. Amendments to the law proposed in 2003 would enhance suspicious transaction reporting, customs declarations, customer identification, record keeping, the development of compliance programs and asset freezing. These amendments will be presented to parliament for enactment early in 2004.

The GOG also created the National Money Laundering Prosecution Unit within the Prosecutor General's Office of Georgia. The National Money Laundering Prosecution Unit, which is currently hiring and vetting members, will form a special task force of investigators and prosecutors to: collect, investigate and, where appropriate, prosecute matters arising from receipt of suspicious transaction reports from the FMS; and investigate and, where appropriate, prosecute violations of the AML Law which may come to their attention by referral from law enforcement or other agencies of the government and/or based on their in-house assessment of information suggesting violations of the AML Law or its predicate offenses. The Unit will begin work in early spring 2004.

Until the recent changes in the Georgian leadership, asset forfeiture was perceived by GOG officials as unconstitutional, therefore, legislators did not include asset forfeiture provisions in their Penal and

Criminal Procedure Codes. This interpretation was based on a landmark ruling of the Constitutional Court of Georgia to remove the confiscation clause as a form of punishment from the Criminal Code of Georgia. Instead of strictly adhering to the Court's decision and removing only confiscation as a punitive measure, legislators removed all forms of confiscation from the law. Confiscation as a punitive measure was deemed unconstitutional because it also applied to proceeds that may derive from an individual's legal activity, and was used in Soviet times (according to a 1961 law) to leverage punishment for any type of crime. Soviet legislation also included "special confiscation", which was used to seize assets obtained from illegal proceeds. This provision was also eliminated from the Criminal Code when the Constitutional Court made its ruling in July 1997. From 1997 through 2003, the Government made no serious attempts to amend the legislation or to correctly interpret the constitutionality of the confiscation clause. Many anticipate the new leadership in the Georgian government will resolve this issue. Members of the new government have repeatedly emphasized that they will use the asset forfeiture mechanism against corrupt officials.

The GOG has taken important first steps toward the development of an anti-money laundering regime. The GOG should enact the pending amendments to its anti-money laundering legislation. The GOG should also take whatever additional action is necessary to bring its anti-money laundering/antiterrorist financing regime into accordance with international standards. If it has not already done so, the GOG should specifically criminalize the financing and support of terrorism and terrorists. Georgia should provide sufficient training and resources to its new FMS and National Money Laundering Prosecution Unit to enable them to efficiently perform their new duties. The GOG should adequately supervise and regulate nonbank financial institutions, alternative remittance systems and nongovernmental organizations, including charitable organizations, to ensure they are not used for terrorist or other criminal ends. Until it does so, Georgia's financial institutions will remain vulnerable to abuse by organized crime as well as terrorist organizations and their supporters.

Germany

Germany has the largest economy in Europe and a well-developed financial services industry. Russian organized crime groups, the Italian Mafia, and Albanian and Kurdish narcotics-trafficking groups launder money through German banks, currency exchange houses, business investments, and real estate.

The Money Laundering Act, which was amended by the Act on the Improvement of the Suppression of Money Laundering and Combating the Financing of Terrorism of August 8, 2002, criminalizes money laundering related to narcotics trafficking, fraud, forgery, embezzlement, and membership in a terrorist organization, and imposes due diligence and reporting requirements on financial institutions. Under the current law, financial institutions are required to obtain customer identification for transactions exceeding 15,000 euros that are conducted in cash or precious metals. Germany has had this requirement for some time (in DM), but the information was only used for statistical purposes; only recently has the information been used in money laundering investigations. Germany also has fully incorporated the FATF Forty Recommendations for combating money laundering and its Eight Special Recommendations regarding the financing of terrorism. This includes questionable actions carried out via the Internet.

The amendments described above also brought German laws into line with the first and second European Union money laundering directives (Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering, as revised by Directive 2001/97/EC). These include the mandate that member states standardize and expand suspicious activity reporting requirements to include information from notaries, accountants, tax consultants, casinos, luxury item retailers, and attorneys. Since 1998, the Federal Banking Supervisory Office has licensed and supervised money transmitters, and has issued anti-money laundering guidelines to the industry.

Germany also has a law, entered into force in 1998, that gives border officials the authority to compel individuals to declare imported currency above a certain threshold (currently 15,000 euros).

The new anti-money laundering package also requires the country's banking supervisory authority to compile a central register of all bank accounts, including 300 million deposit accounts. As a result, on April 1, 2003, a central database at the federal financial supervisory authority was established, which collects basic data on the bank and security accounts held in Germany. Banks use computers to analyze their customers and their financial dealings to identify suspicious activity. The legislation also calls for stiffer checks on the background of owners of financial institutions and tighter rules for credit card companies. Banks that have suspicions of money laundering must report their suspicions to the FIU as well as to the Staatsanwaltschaft (State Attorney), and then they may freeze the account in question.

In May 2002, the German banking, securities, and insurance industry regulators were merged into a single financial sector regulator known as BaFIN. Also in 2002, Germany established a single, central, federal financial intelligence unit (FIU) within the Bundeskriminalamt (National Police Office). The FIU functions as an administrative unit and is staffed with financial market supervision, customs, and legal experts. The FIU is responsible for developing money laundering cases before they go to prosecutors for formal investigation. It also exchanges information with its counterparts in other countries. Actual enforcement is carried out by the states, as is traditional in German federalism. Each state has a joint customs/police/financial investigations unit ("GFG"), which works closely with the federal FIU. U.S. Customs has conducted joint investigations with GFGs on a number of transnational cases. A new system is being implemented that will allow federal authorities access to certain information in all bank accounts in Germany, potentially a very effective tool against money laundering.

Regulations for freezing assets are in place, and the Ministry of Finance is considering amending the Banking Act further to increase the ability to freeze accounts. The Government of Germany (GOG) has established procedures to enforce its asset seizure and forfeiture law. The number of asset seizures and forfeitures remains low because of the high burden of proof that prosecutors must meet in such cases. German law requires a direct link to narcotics trafficking before seizures are allowed. German authorities cooperate with U.S. efforts to trace and seize assets to the extent that German law allows, and the GOG investigates leads from other nations. However, German law does not allow for sharing forfeited assets with other countries.

The GOG moved quickly after September 11, 2001 to identify weaknesses in Germany's laws that permitted at least some of the terrorists to live and study in Germany, unobserved and unnoticed, prior to September 11. Germany's strict data privacy laws have made it difficult for authorities to monitor and take action against financial accounts and transfers used by terrorist networks. Germany's cabinet has submitted, and the Bundestag has passed, two packages of legislation to modify existing laws. The first package closes large loopholes in German law that have permitted members of foreign terrorist organizations to live and raise money in Germany, e.g., through supposedly charitable organizations, and that have allowed extremists to advocate violence in the name of religion under "religious privilege" protections. Germany has undertaken legislative and law enforcement efforts to thwart the misuse of charitable entities. Germany has used its Law on Associations (Vereinsgesetz) to ban administratively extremist associations that threaten the constitutional order. The second package went into effect January 1, 2002. It enhances the capabilities of federal law enforcement agencies, and improves the ability of intelligence and law enforcement authorities to coordinate their efforts and share important information, as they attempt to identify terrorists residing and operating in Germany. Germany's internal intelligence service is provided access to information from banks and financial institutions, postal service providers, airlines, and telecommunication and Internet service providers.

After Germany and other EU member states adopted UNSC Resolution 1373 on December 27, 2001, the EU developed a list of persons and organizations against whom antiterrorist financing measures were to be taken. Germany adheres to this list, which is updated periodically by EU representatives. The Wirtschaftsministerium (Ministry of Economics) receives the international lists of suspected terrorists and distributes the lists as separately issued regulations to the industries. Banks are directed to freeze the accounts of individuals and groups on the list and report them to the FIU, independent of the standard regulations. On the basis of relevant UN Security Council resolutions, Germany participated in international efforts to freeze terrorism-related financial assets. The GOG responded quickly to freeze over 30 accounts of entities associated with terrorists. The bulk of assets initially frozen have since been released. At the end of 2003, approximately 13 accounts containing 3532 euros remained frozen in Germany under these resolutions. This does not include accounts frozen under the administrative banning of extremist organizations under the law on associations. In 2002, the Bundestag added terrorism and terrorism financing to the predicate offenses for money laundering as defined by Penal Code 161.

Germany continues to be an active partner in the fight against money laundering, and participates actively in a number of international fora. The GOG has always cooperated fully with the United States on anti-money laundering initiatives, even before it signed a Mutual Legal Assistance Treaty (MLAT) with the United States in October 2003. The GOG exchanges information with the United States through bilateral law enforcement agreements and other informal mechanisms. Germany has MLATs with numerous countries, and German law enforcement authorities cooperate closely at the EU level, such as through Europol.

Germany is a member of the Financial Action Task Force (FATF), the European Union, the Council of Europe, and in 2003 became a member of the Egmont Group. The head of BaFIN, Jochen Sanio, is the outgoing President of FATF. Germany is a party to the 1988 UN Drug Convention and the Council of Europe Convention on Laundering Search, Seizure and Confiscation of the Proceeds from Crime. In December 2000, Germany signed, but has not yet ratified, the UN Convention against Transnational Organized Crime. Germany signed the UN International Convention for the Suppression of the Financing of Terrorism in 2000, and is expected to ratify it in early 2004.

Since 2001, the GOG has put forward a number of important proposals to strengthen its anti-money laundering and counterterrorist financing regime. The GOG's new anti-money laundering package reflects Germany's commitment to combat money laundering, and to cooperate with international governments. Germany's cooperation is likely to be strengthened as a result of the implementation of its financial intelligence unit. The GOG should continue to enhance its anti-money laundering regime and its active participation in international fora. The GOG should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Ghana

Ghana is not a regional financial center. However, nonbank financial institutions such as foreign exchange bureaus are suspected of being used to launder the proceeds of narcotics trafficking. In addition, donations to religious institutions allegedly have been used as a vehicle to launder money. There has also been an increase in the number of "advanced fee" scam letters that originate in Ghana.

Ghana has criminalized money laundering related to narcotics trafficking and other serious crimes. Law enforcement can compel disclosure of bank records for drug-related offenses, and bank officials are given protection from liability when they cooperate with law enforcement investigations. Ghana has cross-border currency reporting requirements. In December 2001, the Bank of Ghana began drafting money laundering legislation designed to increase the government's financial oversight capabilities. As of December 2003, the bill has not been submitted to Parliament.

The Narcotic Drug Law of 1990 provides for the forfeiture of assets upon conviction of a money laundering offense. The Government of Ghana made no arrests or prosecutions related to money laundering in 2003.

In August and September 2002, the Narcotics Control Board in collaboration with the Ghana Police Service, Ghana Immigration Service, Bureau of National Investigations, Aviation Security, and Customs, Excise and Preventive Service conducted an interdiction exercise at Ghanaian airports. Through this exercise, currency worth approximately $200,000 was seized on suspicion of money laundering.

Ghana participated in the formation of the Inter-Governmental Action Group Against Money Laundering (GIABA) at the December 2001 meeting of the Economic Community of West African States in Dakar. In July 2002, Ghana also hosted the 2002 West African Joint Operation Conference (WAJO) that promotes regional law enforcement cooperation against narcotics trafficking, terrorism, and money laundering. In May 2003, more than 40 representatives from financial institutions and law enforcement agencies participated in and Economic and Financial Anti-Fraud and Computer Crime Training Course.

Ghana is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism. Ghana has endorsed the Basel Committee's "Core Principles for Effective Banking Supervision". Ghana has bilateral agreements for the exchange of money laundering-related information with the United Kingdom, Germany, Brazil, and Italy.

Ghana should take steps to develop an anti-money laundering regime in accordance with international standards. Ghana should also become a party to the UN Convention against Transnational Organized Crime.

Gibraltar

Gibraltar is a largely self-governing overseas territory of the United Kingdom, which assumes responsibility for Gibraltar's defense and international affairs. As part of the European Union, Gibraltar is required to transpose all relevant EU directives, including those relating to anti-money laundering.

The Financial Services Commission (FSC) is responsible for regulating and supervising Gibraltar's financial services industry. It is required by statute to match UK supervisory standards. Both onshore and offshore banks are subject to the same legal and supervisory requirements. Gibraltar has 18 banks, ten of which are incorporated in Gibraltar, and all except one are subsidiaries of major international financial institutions. The FSC also licenses and regulates the activities of trust and company management activities insurance companies, and collective investment schemes. There were 8464 international business companies (IBCs) registered in Gibraltar as at 31 December 2003. Bearer-shares are permitted but the Government is committed to abolishing them. In addition, banks dealing with such warrants require their immobilization. The Government of Gibraltar also requires the immobilization of such warrants in respect of IBCs. Internet gaming is permitted by the Government of Gibraltar (GOG) and is subject to a licensing regime.

The Drug Offenses Ordinance (DOO) of 1995 and Criminal Justice Ordinance of 1995 criminalize money laundering related to all crimes and mandate reporting of suspicious transactions by any person whose suspicions of money laundering are aroused and includes such entities as banks, mutual savings companies, insurance companies, financial consultants, postal services, exchange bureaus, attorneys, accountants, financial regulatory agencies, unions, casinos, charities, lotteries, car dealerships, yacht brokers, company formation agents, dealers in gold bullion, and political parties.

Gibraltar was one of the first jurisdictions to introduce and implement money laundering legislation that covered all crimes. The Gibraltar Criminal Justice Ordinance to combat money laundering, which related to all crimes, entered into effect in January 1996. Comprehensive anti-money laundering Guidance Notes (which have the force of law) were also issued to clarify the obligations of Gibraltar's financial service providers.

Also in 1996, Gibraltar established the Gibraltar Coordinating Centre for Criminal Intelligence and Drugs (GCID) to receive, analyze, and disseminate information on financial disclosures filed by institutions covered by the provisions of Gibraltar's anti-money laundering legislation. The GCID incorporates the Gibraltar Financial Intelligence Unit (GFIU), and is a sub-unit of the Gibraltar Criminal Intelligence Department. The GFIU consists mainly of police and customs officers, but is independent of law enforcement. The GFIU has applied to join the Egmont Group of FIUs but this application was blocked by Spain. The Egmont application process has recently been revived.

In 2000, the Financial Action Task Force (FATF) conducted a review of Gibraltar's anti-money laundering program against the 25 Criteria employed in the Non-Cooperative Countries and Territories (NCCT) exercise. While Gibraltar was not placed on the NCCT list, the FATF noted a number of concerns, particularly with regard to suspicious transaction reporting and customer identification and verification.

In response to the issues raised by the FATF, the GOG is currently drafting amendments to their anti-money laundering legislation. The amendments will provide direct reporting requirements of suspicious transactions, and extend the provisions of the anti-money laundering legislation to cover company formation agents and trusts services providers.

The FSC redrafted the anti-money laundering guidance notes (in July 2002) to abolish the present system for introducer certificates and to require institutions to review all accounts opened prior to April 1, 1995 to ensure that they are in compliance with the new "know your customer" (KYC) procedures. The FSC also took this opportunity to introduce new guidelines related to correspondent banking, politically exposed persons, and bearer securities as well as clearer and more defined KYC procedures. Gibraltar has adopted and implemented the European Union (EU) Money Laundering Directive 91/308/EEC on the prevention of the use of the financial system for the purpose of money laundering. Gibraltar has implemented the 1988 UN Drug Convention pursuant to its Schengen obligations. However, the Convention has not yet been extended to Gibraltar by the United Kingdom. The Mutual Legal Assistance Treaty between the United States and the United Kingdom also has not been extended to Gibraltar. However, application of a 1988 U.S. –UK agreement concerning the investigation of drug trafficking offenses and the seizure and forfeiture of proceeds and instrumentalities of drug trafficking was extended to Gibraltar in 1992. Also, the DOO of 1995 provides for mutual legal assistance with foreign jurisdictions on matters related to narcotics trafficking and related proceeds. Gibraltar has passed legislation as part of the EU decision on its participation in certain parts of the Schengen arrangements, to update mutual legal assistance arrangements with the EU and Council of Europe partners.

Gibraltar is a member of the Offshore Group of Banking Supervisors (OGBS). The FATF (under the aegis of the OGBS) conducted an on-site evaluation of Gibraltar in April 2001 against the FATF Forty Recommendations on Money Laundering. The report on Gibraltar found that "Gibraltar has in place a robust arsenal of legislation, regulations and administrative practices to counter money laundering," adding: "The authorities clearly demonstrate the political will to ensure that their financial institutions and associated professionals maximize their defenses against money laundering, and cooperate effectively in international investigations into criminal funds. Gibraltar is close to complete adherence with the FATF Forty Recommendations".

The Government of Gibraltar also invited the International Monetary Fund (IMF) to perform an assessment in May 2001 of the extent to which Gibraltar's supervisory arrangements for the offshore

financial sector complied with certain internationally accepted standards. The assessment was carried out on the basis of the "Module 2" assessment in accordance with the procedures agreed by the IMF's Executive Board in July 2000. The evaluation found that "…supervision is generally effective and thorough and that Gibraltar ranks as a well-developed supervisor." Gibraltar was found to be fully compliant or partially compliant with all but one of the 67 international standards of supervision in the areas of banking, insurance and securities. The standard that was found not to be met was in relation to on-site visits to insurance companies. This has been fully addressed by the FSC.

Gibraltar has also implemented the FATF Eight Special Recommendations on Terrorist Financing and giving effect to the relevant UN resolutions on the same issue. Arrangements are presently being made to introduce a licensing and supervisory regime in relation to money transmission services.

Gibraltar should take steps to ensure that Internet marketers of financial services do not engage in false advertising that can harm Gibraltar's reputation as a well-regulated offshore financial center.

Greece

While not a major financial center, Greece is vulnerable to money laundering related to narcotics trafficking, prostitution, contraband cigarette smuggling, and illicit gambling activities conducted by criminal organizations originating in CIS countries, as well as Albania, Bulgaria, and other Balkan countries. Money laundering in Greece is controlled by organized local criminal elements associated with narcotics trafficking, and narcotics are the primary source of laundered funds. Most of the funds are not laundered through the banking system. Rather, they are most commonly invested in real estate, hotels, and consumer goods such as automobiles. Capital disclosure requirements for prospective foreign investors are weak. As a result, Greece's five private and two state-owned casinos are susceptible to money laundering. The cross-border movement of illicit currency and monetary instruments is a continuing problem. Greece is not considered an offshore financial center, and there are no offshore financial institutions or international business companies operating within Greece. Senior Government of Greece (GOG) officials are not known to engage in or facilitate money laundering. Currency transactions involving international narcotics-trafficking proceeds are not believed to include significant amounts of U.S. currency.

The GOG criminalizes money laundering derived from all crimes in the 1995 Law 2331/1995. That law, "Prevention of and Combating the Legalization of Income Derived from Criminal Activities," imposes a penalty for money laundering of up to ten years in prison and confiscation of the criminally derived assets. The law also requires that banks and nonbank financial institutions file suspicious transaction reports (STRs). Legislation passed in March 2001 targets organized crime by making money laundering a criminal offense when the property holdings being laundered are obtained through criminal activity or cooperation in criminal activity.

The 1995 law also establishes the Competent Committee (CC) to receive and analyze STRs and to function as Greece's financial intelligence unit (FIU). The CC is chaired by a senior judge and includes representatives from the Central Bank, various government ministries, and the stock exchange. If the CC believes that an STR warrants further investigation, it forwards the STR to the Financial Crimes Enforcement Unit (SDOE), a multi-agency group that functions as the CC's investigative arm. The CC is also responsible for preparing money laundering cases on behalf of the Public Prosecutor's Office.

In 2003 Greece enacted legislation (Law 3148) that incorporates European Union (EU) provisions in directives dealing with the operation of credit institutions and the operation and supervision of electronic money transfers. Under the new legislation, the Bank of Greece has direct scrutiny and control over transactions by credit institutions and entities involved in providing services for funds

transfer. The Bank of Greece will issue operating licenses after a thorough check of the institutions, their management, and their capacity to ensure the transparency of transactions.

The Bank of Greece (through its Banking Supervision Department), the Ministry of National Economy and Finance (which supervises the Capital Market Commission), and the Ministry of Development (through its Directorate of Insurance Companies) supervise and closely monitor Greek credit and financial institutions. Supervision includes the issuance of guidelines and circulars, as well as on-site examinations aimed at checking compliance with anti-money laundering legislation. Supervised institutions must send to their competent authority a description of the internal control and communications procedures they have implemented to prevent money laundering. In addition, banks must undergo internal audits. Bureaux de change are required to send to the Bank of Greece a monthly report on their daily purchases and sales of foreign currency.

Banks in Greece must demand customer identification information when opening an account or conducting transactions that exceed 15,000 euros. In case of suspicion of illegal activities, banks can take reasonable measures to gather more information on the identification of the person. Greek citizens must provide a tax registration number if they conduct foreign currency exchanges of 1,000 euros or more, and proof of compliance with tax laws in order to conduct exchanges of 10,000 euros or more. Banks and financial institutions are required to maintain adequate records and supporting documents for at least five years after ending a relationship with a customer, or in the case of occasional transactions, for five years after the date of the transaction. Reporting individuals are protected by law.

Every bank and credit institution is required by law to appoint an officer to whom all other bank officers and employees must report any transaction they consider suspicious. Reporting obligations also apply to government employees involved in auditing, including employees of the Bank of Greece, the Ministry of Economy and Finance, and the Capital Markets Commission. Reporting individuals are required to furnish all relevant information to the prosecuting authorities.

Greece has adopted banker negligence laws under which individual bankers may be held liable if their institutions launder money. Banks and credit institutions are subject to heavy fines if they breach their obligations to report instances of money laundering; bank officers are subject to fines and a prison term of up to two years. There have been no objections from banking and political groups to the Greek government's policies and laws on money laundering.

All persons entering or leaving Greece must declare to the authorities any amount they are carrying over 2,000 euros. Reportedly, however, cross-border currency reporting requirements are not uniformly enforced at all border checkpoints.

There have been several arrests for money laundering since January 2002. These involved the Greek owners (and their spouses) of vessels transporting cocaine from Colombia and other Western Hemisphere countries. The guilty parties received five-year sentences.

With regard to the freezing of accounts and assets, the GOG is preparing draft legislation to harmonize its laws with relevant legislation of the EU and other international organizations. The basic law on money laundering, Law 2331/1995, will be amended and supplemented accordingly. SDOE has established a mechanism for identifying, tracing, freezing, seizing, and forfeiting narcotics-related and other assets of serious crimes; the proceeds are turned over to the GOG. According to the 1995 law, all property and assets used in connection with criminal activities is seized and confiscated by the GOG following a guilty verdict. Legitimate businesses can be seized if used to launder drug money. Approximately $10 million was seized over the past year for drug-related crimes The GOG has not enacted laws for sharing seized narcotics-related assets with other governments.

The Ministry of Justice unveiled legislation on combating terrorism, organized crime, money laundering, and corruption in March 2001; Parliament passed the legislation in July 2002. The Ministry of National Economy and Finance is preparing new legislation on money laundering and

terrorist financing that it hopes to introduce in Parliament in the first quarter of 2004. Under this new bill, individuals convicted of financing terrorist groups could face imprisonment of up to ten years. The bill will also incorporate the FATF recommendations on terrorist financing.

The Bank of Greece and the Ministry of National Economy and Finance have the authority to identify, freeze, and seize terrorist assets. The Bank of Greece has circulated to all financial institutions the list of individuals and entities that have been included on the UN 1267 Sanctions Committee's consolidated list as being linked to the al-Qaida organization or the Taliban, or that the EU has designated under relevant authorities. Suspect accounts (of small amounts) have been identified and frozen.

There are no known plans on the part of the Greek government to introduce legislative initiatives aimed at regulating alternative remittance systems. Illegal immigrants or individuals without valid residence permits are known to send remittances to Albania and other destinations in the form of gold and precious metals, which are often smuggled across the border in trucks and buses. Charitable and nongovernment organizations are closely monitored by the financial and economic crimes police as well as tax authorities; there is no evidence that such organizations are being used as conduits for the financing of terrorism.

Greece is a member of the Financial Action Task Force (FATF), the European Union, and the Council of Europe. The CC is a member of the Egmont Group. The GOG is a party to the 1988 UN Drug Convention, and in December 2000 became a signatory to the UN Convention against Transnational Organized Crime. On June 8, 2000, Greece signed, but has not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism. Greece has signed bilateral police cooperation agreements with Egypt, Albania, Armenia, France, the United States, Iran, Israel, Italy, China, Croatia, Cyprus, Lithuania, Hungary, the Former Yugoslav Republic of Macedonia, Poland, Romania, Russia, Tunisia, Turkey, and Ukraine. It also has a trilateral police cooperation agreement with Bulgaria and Romania.

Greece exchanges information on money laundering through its Multilateral Assistance Treaty (MLAT) with the United States, which entered into force November 20, 2001. The Bilateral Police Cooperation Protocol provides a mechanism for exchanging records with U.S. authorities in connection with investigations and proceedings related to narcotics trafficking, terrorism, and terrorist financing. Cooperation between DEA and SDOE has been extensive, and the GOG has never refused to cooperate. The Competent Committee can exchange information with other FIUs, although it prefers to work with a memorandum of understanding in such exchanges.

The GOG should extend and implement suspicious transaction reporting requirements for gaming and stock market transactions, and should to adopt more rigorous standards for casino ownership or investments. Additionally, Greece should ensure uniform enforcement of its cross-border currency reporting requirements. The GOG should also take legislative action to specifically criminalize the financing and support of terrorists and terrorism and should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Grenada

There has been improvement in Grenada's anti-money laundering regime and the supervision of its financial sector. Grenada also has demonstrated consistently good cooperation with the U.S. Government by responding rapidly to requests for information involving money laundering cases. Like those of many other Caribbean jurisdictions, the Government of Grenada (GOG) raises revenue from the offshore sector by imposing licensing and annual fees upon offshore entities. As of December 2003, Grenada has two offshore banks, both of which are under GOG regulatory control, one trust company, one management company, and one international insurance company. Grenada is reported to

have over 20 Internet gaming sites. There are 2,293 international business companies (IBCs), and the domestic financial sector includes 6 commercial banks, 26 registered domestic insurance companies, 20 credit unions, and 4 money remitters. The GOG has repealed its economic citizenship legislation, but there are indications that some individuals subsequently were able to purchase citizenship.

In September 2001, the Financial Action Task Force (FATF) placed Grenada on the list of noncooperative countries and territories in the fight against money laundering (NCCT). The FATF in its report cited several concerns: inadequate access by Grenadian supervisory authorities to customer account information, inadequate authority by Grenadian supervisory authorities to cooperate with foreign counterparts, and inadequate qualification requirements for owners of financial institutions. In April 2002, the U.S. Department of Treasury issued an advisory to banks and other financial institutions operating in the United States, to give enhanced scrutiny to all financial transactions originating in or routed to or through Grenada, or involving entities organized or domiciled, or persons maintaining accounts, in Grenada. Grenada's efforts to put into place the legislation and regulations necessary for adequate supervision of Grenada's offshore sector prompted the FATF to remove Grenada from the NCCT list in February 2003. The Department of Treasury also lifted its advisory on Grenada in April 2003.

Grenada's Money Laundering Prevention Act (MLPA) of 1999, which came into force in 2000, criminalizes money laundering related to offenses under the Drug Abuse (Prevention and Control) Act, whether occurring within or outside of Grenada, or other offenses occurring within or outside of Grenada, punishable by death or at least five years' imprisonment in Grenada. The MLPA also establishes a Supervisory Authority to receive, review, and forward to local authorities suspicious activity reports (SARs) from covered institutions and imposes customer identification requirements on banking and other financial institutions.

Financial sector legislation was strengthened, and the Grenada International Financial Services Authority (GIFSA), which monitors and regulates offshore banking, was brought under stricter management. An amendment to the GIFSA Act (No. 13 of 2001) eliminates the regulator's role in marketing the offshore sector. GIFSA makes written recommendations to the Minister of Finance in regards to the revocation of offshore entities' licenses and also issues certificates of incorporation to international business companies. In the future, GIFSA is expected to assume authority for regulating both onshore and offshore institutions, in some areas sharing supervision with the Eastern Caribbean Central Bank (ECCB). GIFSA will be renamed the Grenada Authority for the regulation of Financial Institutions.

The International Companies Act regulates IBCs and requires registered agents to maintain records of the names and addresses of directors and beneficial owners of all shares, as well as the date the person's name was entered or deleted on the share register. Currently, there are 15 registered agents licensed by the GIFSA. There is an ECD$30,000 ($11,500) penalty, and possible revocation of the registered agent's license, for failure to maintain records. The International Companies Act also gives GIFSA the authority to conduct on-site inspections to ensure that the records are being maintained on IBCs and bearer shares. GIFSA began conducting inspections in August 2002.

The International Financial Services (Miscellaneous Amendments) Act 2002 required all offshore financial institutions to recall and cancel any issued bearer shares and to replace them with registered shares. The holders of bearer shares in nonfinancial institutions must lodge their bearer share certificates with a licensed registered agent. These agents are required by Grenada law to verify the identity of the beneficial owners of all shares and to maintain this information for seven years. GIFSA was given the authority to access the records and information maintained by the registered agents and can share this information with regulatory, supervisory, and administrative agencies.

The Minister of Finance has signed a memorandum of understanding (MOU) with the ECCB that grants the ECCB oversight of the offshore banking sector in Grenada. Legislation that would

incorporate the ECCB's new role into existing offshore banking legislation was adopted in 2003 and is expected to go into effect in 2004. The ECCB will have the authority to share bank and customer information with foreign authorities. The ECCB already provides similar regulation and supervision to Grenada's domestic banking sector.

During 2003, the GOG passed the Exchange of Information Act No. 2 of 2003, which will strengthen the GOG's ability to share information with foreign regulators. The Proceeds of Crime (Amendment) Act of 2003 extends anti-money laundering responsibilities to a number of nonbank financial institutions.

Grenada's legal framework now effectively enables GIFSA to obtain customer account records from an offshore financial institution upon request, and to share the customer account information (regulated financial institutions are required to conduct due diligence checks on account holders) with other regulatory, supervisory, and administrative bodies. GIFSA also has the ability to access auditors' working papers, and can share this information as well as examination reports with relevant authorities.

The Supervisory Authority issues anti-money laundering guidelines pursuant to section 12(g) of the MLPA, that direct financial institutions to maintain records, train staff, identify suspicious activities, and designate reporting officers. The guidelines also provide examples to assist bankers to recognize and report suspicious transactions. The Supervisory Authority is authorized to conduct anti-money laundering inspections and investigations. The Supervisory Authority can also conduct investigations and inquiries on behalf of foreign counterpart authorities and provide them with the results. Financial institutions could be fined for not granting access to Supervisory Authority personnel.

Financial institutions must report SARs to the Supervisory Authority within 14 days of the date that the transaction was determined to be suspicious. A financial institution or an employee who willfully fails to file a SAR or makes a false report is liable to criminal penalties that include imprisonment or fines up to ECD$250,000, and possibly revocation of the financial institution's license to operate.

In June 2001, the GOG established a financial intelligence unit (FIU) that is headed by a prosecutor from the Attorney General's office; the staff includes an assistant superintendent of police, four additional police officers, and two support personnel. In 2003, Grenada enacted an FIU Act (No. 1 of 2003). The FIU, which operates within the police force but is assigned to the Supervisory Authority, is charged with receiving SARs from the Supervisory Authority and with investigating alleged money laundering offenses. By November 2003, the FIU had received 66 SARs. The GOG has obtained two drug-related money laundering convictions and has confiscated $19,000. Three other drug-related money laundering cases are pending before the courts, and $56,000 has been frozen in connection with those cases.

In 2003, Grenada enacted antiterrorist financing legislation, which provides authority to identify, freeze, and seize terrorist assets. The GOG circulates lists of terrorists and terrorist entities to all financial institutions in Grenada. There has been no known identified evidence of terrorist financing in Grenada. The GOG has not taken any specific initiatives focused on alternative remittance systems or the misuse of charitable and nonprofit entities.

A Mutual Legal Assistance Treaty and an Extradition Treaty have been in force between Grenada and the United States since 1999. Grenada also has a Tax Information Exchange Agreement with the United States. Grenada's cooperation under the Mutual Legal Assistance Treaty has recently been excellent. Grenada is an active member of the Caribbean Financial Action Task Force (CFATF), and underwent a second CFATF mutual evaluation in September 2003. Grenada is a member of the OAS Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering. Grenada is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism.

Although Grenada has significantly strengthened the regulation and oversight of its financial sector, it must remain alert to potential abuses and must steadfastly implement the laws and regulations it has adopted. The GOG should continue to expose GIFSA, Supervisory Authority, and FIU staff to available training opportunities. The GOG should also continue to enhance its information sharing, particularly with other Caribbean jurisdictions.

Guatemala

Guatemala is a major transshipment country for illegal narcotics from Colombia and precursor chemicals from Europe. Those factors, combined with a historically weak anti-money laundering regime, corruption and increasing organized crime activity, lead authorities to suspect that significant money laundering occurs in Guatemala. According to law enforcement sources, narcotics trafficking is the primary source of money laundered in Guatemala; however, the laundering of proceeds from other illicit sources, such as kidnapping, tax evasion, vehicle theft, and corruption, is on the rise. Officials of the Government of Guatemala (GOG) believe that couriers, offshore accounts, and wire transfers are used to launder funds, which are subsequently invested in real estate, capital goods, or large commercial projects. The large sums of money seized in airports—totaling nearly $6 million in 2003—suggest that proceeds from illicit activity are regularly hand-carried over Guatemalan borders.

Guatemala is not considered a regional financial center, but it is an offshore center, and some larger banks conduct significant business through their offshore subsidiaries. The Guatemalan financial services industry is comprised of 25 commercial banks, approximately 13 offshore banks, seven licensed money exchangers (hundreds exist informally), 18 insurance companies, 21 financial societies (bank institutions that act as financial intermediaries specializing in investment operations), 32 bonded warehouses, five wire remitters, 160 cooperatives (similar to credit unions), and 13 fianzas (financial guarantors). The Superintendence of Banks (SIB), which operates under the general direction of the Monetary Board, has oversight and inspection authority over the Bank of Guatemala, as well as over banks, credit institutions, financial enterprises, securities entities, insurance companies, currency exchange houses, and other institutions as may be designated by the Bank of Guatemala Act.

All offshore institutions are subject to the same requirements as onshore institutions. In June 2002, Guatemala enacted the Banks and Financial Groups Law (No. 19-2002), which places offshore banks under the oversight of the Superintendent of Banks. The law requires offshore banks to be authorized by the Monetary Board and to maintain an affiliation with an onshore institution. It also prohibits an offshore bank that is authorized in Guatemala from doing business in another jurisdiction; however, banks authorized by other jurisdictions may do business in Guatemala under certain limited conditions. Guatemala has recently completed the process of reviewing and licensing its offshore banks, which included performing background checks of directors and shareholders. In order to authorize an offshore bank, the financial group to which it belongs must first be authorized, under a 2003 resolution of the Monetary Board. As of January 2004, thirteen banks have requested Monetary Board authorization through the SIB. Of those, one has withdrawn its petition, one was denied authorization for failure to meet requirements and eleven have been authorized. By law, no offshore financial services businesses other than banks are allowed, but there is evidence that they exist in spite of that prohibition. No offshore trusts have been authorized. Offshore casinos and Internet gaming sites are not regulated.

In June 2001, the Financial Action Task Force (FATF) placed Guatemala on the list of noncooperative countries and territories in the fight against money laundering (NCCT). In its report, the FATF noted that: (1) secrecy provisions in Guatemalan law constitute a significant obstacle to administrative authorities' anti-money laundering efforts; (2) Guatemalan law fails to provide for the sharing of information between Guatemalan administrative authorities and their foreign counterparts; (3) Guatemala's laws criminalize money laundering only in relation to drug offenses and not for all

serious crimes; and (4) Guatemala's suspicious transaction reporting system does not prohibit "tipping off" the person involved in the transaction.

Since the FATF designation, the GOG has taken important steps to reform its anti-money laundering program in accordance with international standards. On April 25, 2001, the Guatemalan Monetary Board issued Resolution JM-191, approving the "Regulation to Prevent and Detect the Laundering of Assets" (RPDLA) submitted by the Superintendence of Banks. The RPDLA, effective May 1, 2001, requires all financial institutions under the oversight and inspection of the SIB to establish anti-money laundering measures, and introduces requirements for transaction reporting and record keeping. Obligated institutions must establish money laundering detection units, designate compliance officers, and train personnel in detecting suspicious transactions.

In November 2001, Guatemala enacted Decree 67-2001, "Law Against Money and Asset Laundering", to address several of the deficiencies identified by the FATF. Article 2 of the law expands the range of predicate offenses for money laundering from drug offenses to any crime. Individuals convicted of money or asset laundering are subject to a noncommutable prison term ranging from six to 20 years, and fines equal to the value of the assets, instruments, or products resulting from the crime. Convicted foreigners will be expelled from Guatemala. Conspiracy and attempt to commit money laundering are also penalized. Guatemalan authorities have had some success using these conspiracy provisions to target narcotics-traffickers.

Decree 67-2001 adds new record keeping and transaction reporting requirements to those already in place as a result of the RPDLA. These new requirements apply to all entities under the oversight of the SIB, as well as several other entities including credit card issuers and operators, check cashers, sellers or purchasers of travelers checks or postal money orders, and currency exchangers. The law establishes that owners, managers, and other employees are expressly freed from criminal, civil, or administrative liability when they provide information in compliance with the law. However, it holds institutions and businesses responsible, regardless of the responsibility of owners, directors, or other employees, and they may face cancellation of their banking licenses and/or criminal charges for laundering money or allowing laundering to occur.

The requirements also apply to offshore entities that are described by the law as "foreign domiciled entities" that operate in Guatemala but are registered under the laws of another jurisdiction. Obligated institutions are prohibited from maintaining anonymous accounts or accounts that appear under fictitious or inexact names; bearer shares, however, are permitted by nonbanks, and there is banking secrecy. Obligated entities are required to keep a registry of their customers as well as of the transactions undertaken by them, such as the opening of new accounts, the leasing of safety deposit boxes, or the execution of cash transactions exceeding approximately $10,000. Under the law, obligated entities must maintain records of these registries and transactions for five years.

Decree 67-2001 also obligates individuals and legal entities to report cross-border movements of currency in excess of approximately $10,000 with the competent authorities. At Guatemala City airport, a new special unit was formed in 2003 to enforce the use of customs forms. Compliance is not regularly monitored at land borders.

Decree 67-2001 establishes a financial intelligence unit (FIU), the Intendencia de Verificación Especial (IVE), within the Superintendence of Banks, to supervise obligated financial institutions and ensure their compliance with the law. The IVE began operations in 2001 and has a staff of 23. The IVE has the authority to obtain all information related to financial, commercial, or business transactions that may be connected to money laundering. Obligated entities are required to report to the IVE any suspicious transactions within twenty-five days of detection and to submit a comprehensive report every trimester, even if no suspicious transactions have been detected. Entities also must maintain a registry of all cash transactions exceeding approximately $10,000 or more per

day, and report these transactions to the IVE. The IVE may impose sanctions on financial institutions for noncompliance with reporting requirements.

After receiving the suspicious activity reports (SARs) and currency transaction reports (CTRs), the IVE evaluates the information to determine if its contents are highly suspicious. If so, the IVE gathers further information from public records and databases, other obligated entities, and foreign FIUs, and assembles a case. Bank secrecy can be lifted for the investigation of money laundering crimes. The case must receive the approval of the SIB before being sent to the Anti-Money or Other Assets Laundering Unit within the Public Ministry for investigation. Under current regulations, the IVE cannot directly share the information it provides to the Anti-Money or Other Assets Laundering Unit with any other special prosecutors (principally the anti-corruption or antinarcotics units) in the Public Ministry. From January 2003 to October 31, 2003, the IVE received 439 SARs and forwarded two cases to the Public Ministry for further investigation and prosecution.

Within the Public Ministry, the Anti-Money or Other Assets Laundering Unit processes cases involving money laundering. Since January 1, 2003, there have been three arrests and 50 prosecutions connected to money laundering. The first public trial for money laundering is scheduled for early 2004.

In 2002, failure to comply with money laundering commitments was cited in the U.S. decision to decertify Guatemala as a cooperating country in the fight against narcotics trafficking. However, Guatemala was re-certified in 2003, and its efforts to comply with anti-money laundering commitments were identified as a factor in the decision. Still, the following impediments remain in the implementation of effective anti-money laundering measures: the applicable law does not permit undercover investigations; Guatemala lacks both the legislation and technology to permit police and prosecutors immediate access to public registries; corruption hampers enforcement; and authorities are not permitted to use seized assets to fund anti-money laundering initiatives.

During the FATF's most recent review of noncooperative countries and territories, the FATF inspectors found Guatemala generally to be in compliance in the fight against money laundering. Three specific weaknesses were identified, however. These weaknesses are: (1) bearer shares are still allowed for nonbank entities, preventing true owners or beneficiaries from being traced; (2) authorities have insufficient resources to carry out anti-money laundering investigations; and (3) supervision of offshore banks remains weak. Guatemala remains on the FATF NCCT list.

Under current legislation, any assets linked to money laundering can be seized. Within the GOG, the IVE, the National Civil Police, and the Public Ministry have the authority to trace assets; the Public Ministry can seize assets temporarily or in urgent cases; and the Courts of Justice have the authority to permanently seize assets. The GOG passed reforms in 1998 to allow the police to use narcotics traffickers' seized assets. These provisions also allow for 50 percent of the money to be used by the IVE and others involved in combating money laundering. In 2003, the Guatemalan Congress approved reforms to enable seized money to be shared among several GOG agencies, but the Constitutional Court (CC) temporarily suspended those provisions. This impasse will have to be addressed by the new government that will take office in mid-January 2004.

An additional problem is that the courts do not allow seized currency to be deposited into accounts. For money laundering and narcotics cases, any seized money is deposited in a bank safe and all material evidence is sent to the warehouse of the Public Ministry. There is no central tracking system for seized assets, and it is currently impossible for the GOG to provide an accurate listing of the seized assets in custody. In 2003, Guatemalan authorities seized more that $20 million in bulk currency, including the largest bulk seizure in Guatemalan history: $14.5 million.

Guatemala has taken a number of initiatives with regard to terrorist financing. According to the GOG, Article 391 of the Penal Code already sanctions all preparatory acts leading up to a crime, and

financing would likely be considered a preparatory act. Technically, both judges and prosecutors could issue a freeze order on terrorist assets, but no test case has validated these procedures. There is no known credible evidence of terrorist financing in Guatemala, and the GOG has been very cooperative in looking for such funds. Recently, in accordance with international obligations, a comprehensive counterterrorism law that includes provisions against terrorist financing was introduced in Congress. However, it was not passed during the 2003 election season and will have to be re-introduced in the new Congress in 2004.

Guatemala is a party to the 1988 UN Drug Convention and the UN International Convention for the Suppression of the Financing of Terrorism. In November 2000, the GOG ratified the Central American Convention for the Prevention of Money Laundering and Related Crimes. The GOG ratified the UN Convention against Transnational Organized Crime on September 25, 2003, and signed the UN Convention Against Corruption on December 9, 2003. Guatemala is a member of OAS Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering (OAS/CICAD), and the Caribbean Financial Action Task Force (CFATF). In 2003, Guatemala's FIU became a member of the Egmont Group. The SIB, through the IVE, has signed Memorandums of Understanding (MOUs) with 16 jurisdictions, including Bolivia, Brazil, Colombia, El Salvador, Spain, Honduras, Mexico, Montserrat, Panama, and the Dominican Republic. During 2003, Guatemala signed MOUs with Venezuela, Argentina, Barbados, Costa Rica, Bahamas and Peru. The SIB has also begun negotiations to sign an MOU with Puerto Rico. On November 5, 2003, the GOG signed an agreement with the USG Office of the Currency Comptroller to cooperate on supervision issues.

Guatemala has made efforts to comply with international standards and improve its anti-money laundering regime. In 2003, Guatemalan authorities applied new procedures to license and monitor offshore banks and demonstrated they could use anti-money laundering laws to successfully target criminals. However, the GOG should pass legislation on the financing of terrorists and terrorism, and continue efforts to implement the needed reforms. Guatemala should also focus its efforts on boosting its ability to successfully investigate and prosecute money launderers, and on distributing seized assets to law enforcement agencies to assist in the fight against money laundering and other financial crime. Corruption and organized crime remain strong forces in Guatemala and may prove to be the biggest hurdles facing Guatemala in the long term.

Guernsey

The Bailiwick of Guernsey (the Bailiwick) covers a number of the Channel Islands (Guernsey, Alderney, Sark, and Herm in order of size and population). The Islands are a Crown Dependency because the United Kingdom (UK) is responsible for their defense and international relations. However, the Bailiwick is not part of the UK. Alderney and Sark have their own separate parliaments and civil law systems. Guernsey's parliament legislates criminal law for all of the islands in the Bailiwick. The Bailiwick alone has competence to legislate in and for domestic taxation. The Bailiwick is a sophisticated financial center and, as such, it continues to be vulnerable to money laundering at the layering and integration stages.

There are 16,340 companies registered in the Bailiwick. Nonresidents own approximately half of the companies, and they have an exempt tax status. These companies do not fall within the standard definition of an international business company (IBC). The remainder of the companies are owned by local residents and include trading and private investment companies. Exempt companies are not prohibited from conducting business in the Bailiwick, but must pay taxes on profits of any business conducted in the islands. Companies can be incorporated in Guernsey and Alderney, but not in Sark, which has no company legislation. Companies in Guernsey may not be formed or acquired without disclosure of beneficial ownership to the Guernsey Financial Services Commission (the Commission).

Guernsey has 65 banks, all of which have offices, records, and a substantial presence in the Bailiwick. The banks are licensed to conduct business with residents and nonresidents alike. There are 578 international insurance companies, and 507 collective investment funds. There are also 19 bureaux de change, which file accounts with the tax authorities. Many are part of a licensed bank, and it is the bank that publishes and files accounts.

Guernsey has put in place a comprehensive legal framework with which to counter money laundering and the financing of terrorism. The Proceeds of Crime (Bailiwick of Guernsey) Law 1999 (as amended) is supplemented by the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Regulations, 2002. The legislation criminalizes money laundering for all crimes, except for drug trafficking, which is covered by the Drug Trafficking (Bailiwick of Guernsey) Law, 2000. The Proceeds of Crime Law and the Regulations are supplemented by Guidance Notes on the Prevention of Money Laundering and Countering the Financing of Terrorism, issued by the Commission. There is no exemption for fiscal offenses. The 1999 law creates a system of suspicious transaction reporting (including about tax evasion) to the Guernsey Financial Intelligence Service (FIS). The Bailiwick narcotics trafficking, anti-money laundering, and terrorism laws designate the same foreign countries as the UK to enforce foreign restraint and confiscation orders.

The Drug Trafficking (Bailiwick of Guernsey) Law 2000 consolidates and extends money laundering legislation related to narcotics trafficking. It introduces the offense of failing to disclose the knowledge or suspicion of drug money laundering. The duty to disclose extends outside of financial institutions to others, for example, bureaux de change and check cashers.

In addition, the Bailiwick authorities have recently approved the enactment of the Prevention of Corruption (Bailiwick of Guernsey) Law of 2003 and have resolved to merge existing drug trafficking, money laundering and other crimes into one statute, and to introduce a civil forfeiture law.

On April 1, 2001, the Regulation of Fiduciaries, Administration Businesses, and Company Directors, etc. (Bailiwick of Guernsey) Law of 2000 ("the Fiduciary Law"), came into effect. The Fiduciary Law was enacted to license, regulate, and supervise company and trust service providers. Under Section 35 of the Fiduciary Law, the Commission creates Codes of Practice for corporate service providers, trust service providers, and company directors. Under the law, all fiduciaries, corporate service providers, and persons acting as company directors of any business must be licensed by the Commission. In order to be licensed, these agencies must pass strict tests. These include "Know Your Customer" requirements and the identification of clients. These organizations are subject to regular inspection, and failure to comply could result in the fiduciary being prosecuted and/or its license being revoked. The Bailiwick is fully compliant with the Offshore Group of Banking Supervisors Statement of Best Practice for Company and Trust Service Providers.

Since 1988, the Commission has regulated the Bailiwick's financial services businesses. The Commission regulates banks, insurance companies, mutual funds and other collective investment schemes, investment firms, fiduciaries, company administrators, and company directors. The Bailiwick does not permit bank accounts to be opened unless there has been a "Know Your Customer" inquiry and verification details are provided. Company incorporation is by act of the Royal Court, which maintains the registry. All first-time applications to form a Bailiwick company have to be made to the Commission, which then evaluates each application. The court will not permit incorporation unless the Commission and the Attorney General or Solicitor General have given their prior approval. The Commission conducts regular on-site inspections and analyzes the accounts of all regulated institutions.

The Guernsey authorities have established a forum, the Crown Dependencies Anti-Money Laundering Group, where the Attorneys General from the Crown Dependencies, Directors General and other representatives of the regulatory bodies, and representatives of police, Customs, and the FIS, the

Bailiwick's financial intelligence unit, meet to coordinate the anti-money laundering and antiterrorism policies and strategy in the Dependencies.

The FIS, a joint Police and Customs/Excise Service, is mandated to place specific focus and priority on money laundering and terrorism financing issues. Suspicious transaction reports are filed with the FIS, which is the central point within the Bailiwick for the receipt, collation, evaluation, and dissemination of all financial crime intelligence.

The Criminal Justice (International Cooperation) (Bailiwick of Guernsey) Law, 2000, furthers cooperation between Guernsey and other jurisdictions by allowing certain investigative information concerning financial transactions to be exchanged. Guernsey cooperates with international law enforcement on money laundering cases. In cases of serious or complex fraud, Guernsey's Attorney General can provide assistance under the Criminal Justice (Fraud Investigation) (Bailiwick of Guernsey) Law 1991. The Commission also cooperates with regulatory/supervisory and law enforcement bodies.

On September 19, 2002, the United States and Guernsey signed a Tax Information Exchange Agreement. The agreement provides for the exchange of information on a variety of tax investigations, paving the way for audits that could uncover tax evasion or money laundering activities. Currently, similar agreements are being negotiated with other countries, among them members of the European Union.

There has been antiterrorism legislation covering the Bailiwick since 1974. The Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, replicates equivalent UK legislation. The provisions of UN Security Council Resolutions 1373 and 1390 were enacted in domestic law at the same time as they were enacted in the UK. The Bailiwick has requested that the UK Government seek the extension to the Bailiwick of the UN International Convention on the Suppression of the Financing of Terrorism and the UN International Convention for the Suppression of Terrorist Bombing.

In November 2002, the International Monetary Fund (IMF) undertook an assessment of Guernsey's compliance with internationally accepted standards and measures of good practice relative to its regulatory and supervisory arrangements for the financial sector. The IMF report states that Guernsey has a comprehensive system of financial sector regulation with a high level of compliance with international standards. As for anti-money laundering and combating terrorist financing (AML/CFT), the IMF report highlights that Guernsey has a developed legal and institutional framework for AML/CFT and a high level of compliance with the Financial Action Task Force Recommendations.

The Attorney General's Office is represented in the European Judicial Network and has been participating in the European Union's PHARE anti-money laundering project. The Commission cooperates with regulatory/supervisory and law enforcement bodies. It is a member of the International Association of Insurance Supervisors, the Offshore Group of Insurance Supervisors, the International Association of International Fraud Agencies, the International Organization of Securities Commissions, the Enlarged Contact Group for the Supervision of Collective Investment Funds, and the Offshore Group of Bank Supervisors. The FIS is a member of the Egmont Group.

After extension to the Bailiwick, Guernsey enacted the necessary legislation to implement the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters, the 1990 Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds of Crime, and the 1988 UN Drug Convention. The 1988 Agreement Concerning the Investigation of Drug Trafficking Offenses and the Seizure and Forfeiture of Proceeds and Instrumentalities of Drug Trafficking, as amended in 1994, was extended to the Bailiwick in 1996.

Guernsey has put in place a comprehensive anti-money laundering regime, and has demonstrated its ongoing commitment to fighting financial crime. Bailiwick officials should continue both to carefully

monitor its anti-money laundering program to assure its effectiveness, and to cooperate with international anti-money laundering authorities.

Guinea

Guinea has an unsophisticated banking system and is not a regional financial center. Banking leaders in Guinea estimate that 70 to 80 percent of business transactions take place in cash. Several expatriate communities in Guinea maintain strong ties to their countries of origin and are sources of international currency transfers. Both formal and informal money transfer services have expanded greatly in Guinea in recent years. Guinea has an active black market for foreign currency—especially euros, U.S. dollars, and CFA francs. Contraband is common. Merchants dealing in small quantities comprise most of the business transactions in Guinea. Guinea's mining industry leads to an influx of foreign currency. In addition to large mining operations, Guinea has an industry of small-scale, traditional mining. This industry, which deals primarily with diamonds and gold, lends itself to money laundering, as few records are kept and sales are made in cash. In 2002, Guinean police seized over $1.5 million high-quality counterfeit U.S. currency tied to gold and diamond trade. Some narcotics trafficking occurs in Guinea.

Instability in the region surrounding Guinea also contributes to a permissive environment. Given Guinea's status as a relatively stable country in a troubled region, rebels and/ or refugees from neighboring nations may bring substantial amounts of cash, counterfeit currency and precious stones into Guinea.

Section 4 of the Guinean Penal Code criminalizes money laundering related to narcotics trafficking. Violations are punishable by 10 to 20 years in prison and a fine of $2,500 to $50,000. While some commercial banks in Guinea are voluntarily using software or other methods to detect suspicious transactions, no anti-money laundering regime is in place. The Ministry of Finance has approached an international accounting and consulting firm to assist the Government of Guinea in writing an anti-money laundering law.

No money laundering arrest or prosecutions for money laundering have been prosecuted since January 1, 2003.

Guinea is a party to the 1988 UN Drug Convention. Guinea is also a party to the UN International Convention for the Suppression of the Financing of Terrorism. A lack of resources makes full implementation of these international standards difficult for the Government of Guinea.

Guinea should enact comprehensive anti-money laundering legislation that criminalizes money laundering and terrorist financing.

Guinea-Bissau

Guinea-Bissau is not considered an important regional financial center. It is a Central Bank of West African States (BCEAO) member country. While anecdotal evidence of money laundering exists, Bissau-Guinean officials are not aware of its extent. Guinea-Bissau has an unofficial money transfer system, similar to the hawala alternative remittance system, but authorities are unaware of the scope of this system. However, there are numerous cases of corruption, narcotics trafficking, arms dealing and other crimes that could engender money laundering. Contraband smuggling exists at border points with neighboring countries, but it is not known whether the resulting funds are being laundered through the banking system. Guinea-Bissau's courts did not function during most of 2003. Public servants are owed months of salary by a government in arrears and corruption is rampant. Money laundering could occur in all these areas and would be extremely difficult to detect.

Guinea-Bissau is a member of the Intergovernmental Group Against Money Laundering (GIABA), a regional body established by the Economic Union of West African States (ECOWAS) to facilitate regional coordination and harmonization of anti-money laundering programs in the region. GIABA recently hosted a self-evaluation exercise on anti-money laundering capabilities in conjunction with the International Monetary Fund and ECOWAS member states.

Guinea-Bissau is reportedly going to adopt a Uniform Act on Money Laundering that implements standards drafted by the West African Economic and Monetary Union (WAEMU) member states in conjunction with GIABA and the BCEAO. Under the harmonized WAEMU standards, Guinea-Bissau will join the other seven WAEMU countries and ultimately the 15 members of ECOWAS in updating the judicial and penal code concerning money laundering and crimes of corruption, establishing a Financial Intelligence Unit (FIU), and strengthening law enforcement and detection capability of money laundering and corruption.

A regulation at the regional level was approved by the council of ministers of the WAEMU on September 19, 2002; this regulation permits the freezing of accounts and other assets related to the financing of terrorism.

No arrests or prosecutions for money laundering or terrorist financing were made in 2003.

Guinea-Bissau is a party to the 1988 UN Drug Convention and has signed, but has not yet ratified, both the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. It has not signed the UN Convention Against Corruption.

Guinea-Bissau should criminalize terrorist financing and should take steps to develop an anti-money laundering regime in accordance with international standards. Guinea-Bissau should become a party to the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. It should avail itself of the opportunity to work closely with BCEAO and GIABA, as well as other international organizations, toward these ends.

Guyana

Guyana is neither an important regional financial center nor an offshore financial center, nor does it have any notable offshore business sector. The scale of money laundering, though, is thought to be large given the size of the informal economy, which is estimated to be at least 30 percent of the size of the formal sector. Money laundering has been linked to trafficking in drugs, firearms and persons, as well as corruption and fraud. Political instability, government inefficiency, an internal security crisis, and a lack of resources have significantly impaired Guyana's efforts to bolster its anti-money laundering regime. Investigating and trying money laundering cases is not a priority for law enforcement. The Government of Guyana (GOG) made no arrests or prosecutions for money laundering in 2003.

The Money Laundering Prevention Act passed in 2000 is not yet fully in force, due to inadequate implementing legislation, difficulties associated with finding suitable personnel to staff the Financial Investigations Unit (FIU) and the Bank of Guyana's lack of capacity to fully execute its mandate. Crimes covered by the Money Laundering Prevention Act include illicit narcotics trafficking, illicit trafficking of firearms, extortion, corruption, bribery, fraud, counterfeiting, and forgery. The law also requires that incoming or outgoing funds over $10,000 be reported. Licensed financial institutions are required to report suspicious transactions, although banks are left to determine thresholds individually according to banking best practices. Suspicious activity reports must be kept for seven years. The legislation also includes provisions regarding confidentiality in the reporting process, good faith reporting, penalties for destroying records related to an investigation, asset forfeiture, international cooperation, and extradition for money laundering offenses.

The GOG established a financial intelligence unit in 2003, although by the end of the year it was not yet fully staffed or equipped.

Asset forfeiture is provided for under the Money Laundering Act, although the guidelines for implementing seizures/forfeitures have not yet been finalized.

The Ministry of Foreign Affairs and the Bank of Guyana (the country's Central Bank), continue to assist U.S. efforts to combat terrorist financing by working towards coming into compliance with UNSCRs 1333, 1368, and 1373. In 2001 the Central Bank, the sole financial regulator as designated by the Financial Institutions Act of March 1995, issued orders to all licensed financial institutions expressly instructing the freezing of all financial assets of terrorists, terrorist organizations, individuals and entities associated with terrorists and their organizations. Guyana has no domestic laws authorizing the freezing of terrorist assets, but the government created a special committee on the implementation of UNSCRs, co-chaired by the Head of the Presidential Secretariat and the Director General of the Ministry of Foreign Affairs. To date the procedures have not been tested, due to an absence of identified terrorist assets located in Guyana.

Guyana is a member of the OAS Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. A 2002 CICAD review of Guyana's efforts against money laundering noted numerous deficiencies in implementation, resources, and political will. Guyana is now also a member of the Caribbean Financial Action Task Force (CFATF), but has not yet participated in that organization's mutual evaluation process. Guyana is a party to the 1988 UN Drug Convention. Guyana has not signed the UN Convention against Transnational Organized Crime nor the UN International Convention for the Suppression of the Financing of Terrorism, although Guyana was debating the Convention in late 2003 and may sign it in early 2004.

Guyana should enact legislation and/or regulations to implement its Money Laundering law. Guyana should provide appropriate resources and awareness training to its regulatory, law enforcement and prosecutorial personnel. Guyana should criminalize terrorist financing and adopt measures that would allow it to block terrorist assets.

Haiti

Haiti is not a major regional financial center, and given Haiti's dire economic condition and unstable political situation, it is doubtful it is a major player in the region's formal financial sector. Most money laundering activity appears to be related to narcotics proceeds (primarily cocaine), although there is a significant amount of contraband passing through Haiti. While the informal economy in Haiti is significant and partly funded by narcotics proceeds, smuggling is historically prevalent and pre-dates narcotics trafficking. Money laundering occurs in the banking system and the nonbank financial system, including in casino, foreign currency, and real estate transactions. Further complicating the picture is the cash that is routinely transported to Haiti from Haitians and their relatives in the United States in the form of remittances. While there is no indication of terrorist financing, Haiti is often a stopover for illegal migrants from several countries.

In recent years, Haiti has taken steps to address its money laundering problems. Since August 2000, Haiti, through Central Bank Circular 95, has required banks, exchange brokers, and transfer bureaus to obtain declarations identifying the source of funds exceeding 200,000 gourdes (approximately $4,550) or its equivalent in foreign currency. Covered entities must report these declarations to the competent authorities on a quarterly basis. Failure to comply can result in fines up to 100,000 gourdes (approximately $2,275) or forfeiture of the bank's license. Unfortunately, because of widespread official laxity and rampant corruption, and the fact that nearly two thirds of Haiti's economy is informal, large amounts of money do not flow through the legitimate financial system that is governed by these regulations.

Since 2001, Haiti has used the "Law on Money Laundering from Illicit Drug Trafficking and other Crimes and Punishable Offenses" (AML Law) as its primary anti-money laundering tool. All financial institutions and natural persons are subject to the money laundering controls of the AML Law. The AML Law criminalizes money laundering, which it defines as "the conversion or transfer of assets for the purpose of disguising or concealing the illicit origin of those assets or for aiding any person who is involved in the commission of the offense from which the assets are derived to avoid the legal consequences of his acts; the concealment or disguising of the true nature, origin, location, disposition, movement, or ownership of property; and the acquisition, possession or use of property by a person who knows or should know that this property constitutes proceeds of a crime under the terms of this law."

The AML Law provides for relatively long prison sentences and large fines totaling millions in gourdes, and applies to a wide range of financial institutions, including banks, money changers, casinos, and real estate agents. Insurance companies are not covered, but they represent only a minimal factor in the Haitian economy. The AML Law requires natural persons and legal entities to verify the identity of all clients, record all transactions, including their nature and amount, and submit the information to the Ministry of Economy and Finance.

Specifically, the AML Law requires financial institutions to establish money laundering prevention programs and to verify the identity of customers who open accounts or conduct transactions that exceed 200,000 gourdes (approximately $4,550). Banks are required to maintain records for at least five years and are required to present this information to judicial authorities and financial information service officials upon request. When stock or currency transactions exceed 200,000 gourdes and are of a suspicious nature, financial institutions are required to investigate the origin of those funds and prepare an internal report. These reports are available (upon request) to the Unite Centrale de Renseignements Financiers (UCREF), Haiti's financial intelligence unit (FIU). Bank secrecy or professional secrecy cannot be invoked as grounds for refusing information requests from these authorities.

In 2002, Haiti formed a National Committee to Fight Money Laundering, the Comite National de Lutte Contre le Blanchiment des Avoirs (CNLBA). The CNLBA is in charge of promoting, coordinating, and recommending policies to prevent, detect, and suppress the laundering of assets obtained from the illicit trafficking of drugs and other serious offenses. The CNLBA, through UCREF, is responsible for receiving and analyzing reports submitted in accordance with the AML Law. The UCREF was created through an August 2000 circular by the Ministries of Justice and Public Security and is referenced in the AML Law. The FIU officially opened in December 2003, and by law, has the authority to exchange information with foreign countries. Entities or persons are required to report to the UCREF any transaction involving funds that appear to be derived from a crime. Failure to report such transactions is punishable by more than three years' imprisonment. Although established in 2002, the CNLBA is still not fully functional or funded. Additionally, the UCREF does not meet the international standards established by the Egmont Group of FIUs.

The AML Law has provisions for the forfeit and seizure of assets; however, the government cannot declare the asset or business forfeited until there is a conviction, which does not happen often in Haiti. The judicial branch is the deciding organization, but seizures and use of seized assets is on an ad hoc basis. Haiti is considering modifications to the law to strengthen the judicial procedure and asset seizure and forfeit provisions.

Corruption and the large informal economy continue to prevent the full implementation and enforcement of Haiti's 2001 anti-money laundering law. This is evidenced by the fact that in 2003 there were no arrests or prosecutions for money laundering or terrorism.

Haiti has made little progress regarding terrorist financing in the past year. The government still has not passed legislation criminalizing the financing of terrorists and terrorism, nor has it signed the UN

International Convention for the Suppression of the Financing of Terrorism. The AML Law provides for investigation and prosecution in all cases of illegally derived money. Under this law, terrorist finance assets may be frozen and seized. The commission printed and circulated to all banks the list of individuals and entities on the UN 1267 Sanctions Committee's consolidated list. The Central Bank chaired meetings with all bank presidents and requested their cooperation.

Although Haiti has signed the UN Convention against Transnational Organized Crime, the government has not yet ratified the treaty. Haiti is a party to the 1988 UN Drug Convention. Haiti is a member of the OAS/CICAD Experts Group to Control Money Laundering and the Caribbean Financial Action Task Force (CFATF).

In the coming year, the Government of Haiti should make every effort to fully implement the AML Law. Haiti should criminalize terrorist financing and work toward becoming a party to the UN International Convention for the Suppression of the Financing of Terrorism. It should also bring the UCREF into compliance with the Egmont Group standards and seek greater assistance and training for personnel involved in the fight against money laundering.

Honduras

Honduras is not an important regional or offshore financial center and is not considered to have a significant black market for smuggled goods. The vulnerabilities of Honduras to money laundering stem primarily from significant narcotics trafficking throughout the region. In Honduras, money laundering takes place through the banking sector, and most likely in currency exchange houses, casinos, and front companies as well. Corruption remains a serious problem, particularly within the judiciary and law enforcement sectors. The operation of offshore financial institutions is prohibited; casinos, however, remain unregulated.

In 2002, there were major developments in the fight against money laundering in Honduras. On February 28, 2002, the National Congress passed long-awaited legislation to widen the definition of money laundering and strengthen enforcement. Prior to the new law, the Honduran anti-money laundering program was based on Law No. 27-98 of December 1997. Law No. 27-98 criminalized the laundering of narcotics-related proceeds, and introduced customer identification (no anonymous bank accounts were permitted), record keeping (five years), and transaction reporting requirements for financial institutions, including banks, currency exchange houses, money transmitters, and check sellers/cashiers. Under the new legislation, Decree No. 45-2002, the Law No. 27-98 was expanded to define the crime of money laundering to include any non-economically justified sale or movement of assets, as well as asset transfers connected with trafficking of drugs, arms, and people; auto theft; kidnapping; bank and other forms of financial fraud; and terrorism. The penalty for money laundering is a prison sentence of 15-20 years. The law includes banker negligence provisions that make individual bankers subject to two- to five-year prison terms for allowing money laundering activities.

Decree No. 45-2002 also creates a financial intelligence unit, the Unidad de Información Financiera (UIF), within the Honduras National Banking and Securities Commission. Banks and other financial institutions are required to report to the UIF currency transactions over $10,000 in dollar denominated accounts or 200,000 lempiras (approximately $11,200) in local currency accounts. The law requires the UIF and reporting institutions to keep a registry of reported transactions for five years. The UIF receives over 2,000 reports per month of transactions over the designated threshold. Banks and other financial institutions are also required to report all unusual or suspicious financial transactions to the UIF. In 2003, the UIF initiated investigations into 74 unusual or suspicious transactions, up from the 24 investigated in 2002. The UIF also responded to 156 requests for investigation made by the Public Ministry, compared to 48 in 2002.

Decree No. 45-2002 requires that a public prosecutor be assigned to the UIF. In 2002, a prosecutor from the Public Ministry was assigned to the unit full-time. In 2003, however, the Public Ministry changed this arrangement so that there are now four prosecutors assigned to the UIF, each on a part-time basis, with responsibility for specific cases divided among them depending on their expertise. The prosecutors, under urgent conditions and with special authorization, may subpoena data and information directly from financial institutions. Public prosecutors and police investigators are permitted to use electronic surveillance techniques to investigate money laundering.

Early in 2003, there was ambiguity as to which of two units within the police forces would have responsibility for the investigation of financial crimes. This issue was resolved by mid-year, with primary responsibility for the investigations assigned to the Office of Special Investigative Services (DGSEI). By the end of 2003, it appeared the various government entities involved in the fight against money laundering—the DGSEI, the UIF and the Public Ministry—were beginning to work well together and communicate more effectively among themselves. In 2003, there were ten cases brought to court under the new law, which were still pending at the year's end.

The National Congress enacted an asset seizure law in 1993 that subsequent Honduran Supreme Court rulings had substantially weakened. Decree No. 45-2002 strengthens the asset seizure provisions of the law, establishing an Office of Seized Assets under the Public Ministry. The law authorizes the Office of Seized Assets to guard and administer "all goods, products or instruments" of a crime. However, the actual process of establishing and equipping this office to carry out its functions has been slow. The implementing regulations governing the Office of Seized Assets were finalized and published in March 2003, and a director of the office was named at the same time. Plans to build separate offices and a warehouse for this entity, however, are still incomplete, resulting in seized assets currently being kept in various locations under dispersed authority. Moreover, in September another government entity made an unsuccessful attempt to take over the function of controlling seized assets from the nascent Office. Consequently, the Office of Seized Assets cannot be said to have established firm control over the asset seizure and forfeiture process. The physical transportation of large sums of cash is a growing phenomenon in Honduras, and since the beginning of 2003, there have been seizures of cash and assets totaling over two million dollars.

The Government of Honduras (GOH) has been supportive of counterterrorism efforts. Decree No. 45-2002 states that an asset transfer related to terrorism is a crime; however, terrorist financing has not been identified as a crime itself. This law does not explicitly grant the GOH the authority to freeze or seize terrorist assets; on separate authority; however, the National Banking and Insurance Commission has issued freeze orders promptly for the organizations and individuals named by the UN 1267 Sanctions Committee and those organizations and individuals on the list of Specially Designated Global Terrorists designated by the United States pursuant to Executive Order 13224 (on terrorist financing). The Ministry of Foreign Affairs is responsible for instructing the Commission to issue freeze orders. The Commission directs Honduran financial institutions to search for, hold, and report on terrorist-linked accounts and transactions, which, if found, would be frozen. The Commission reported that, to date, no accounts linked to the entities or individuals on the lists have been found in the Honduran financial system.

While Honduras is a major recipient of flows of remittances (estimated at $800 million in 2003), there has been no evidence to date linking these remittances to the financing of terrorism. Remittances primarily flow from Hondurans living in the United States to their relatives in Honduras. The great majority of these remittances is sent through wire transfer or bank services.

The GOH cooperates with U.S. investigations and requests for information pursuant to the 1988 UN Drug Convention. Honduras has signed memoranda of understanding to exchange information on money laundering investigations with Panama, El Salvador, Guatemala, and Colombia. The GOH also adheres to the Basel Committee's "Core Principles for Effective Banking Supervision." At the

regional level, Honduras is a member of the Central American Council of Bank Superintendents, which meets periodically to exchange information.

Honduras is a party to the 1988 UN Drug Convention. The GOH is also a party to both the UN International Convention against Transnational Organized Crime and the UN International Convention for the Suppression of the Financing of Terrorism. The GOH has signed, but not yet become a party to, the OAS Inter-American Convention on Terrorism, and has not yet signed the UN Convention Against Corruption. Honduras is a member of the Organization of American States Inter-American Drug Abuse Control Commission (OAS/CICAD) Experts Group to Control Money Laundering. In 2002, Honduras became a member of the Caribbean Financial Action Task Force (CFATF). The UIF has been nominated by Spain for inclusion in the Egmont Group of Financial Intelligence Units. Its entry nomination will be voted upon in October of 2004.

In 2003, the GOH took positive steps to implement Decree No. 45-2002 by establishing and equipping the various government entities responsible for combating money laundering. However, there are only limited resources available for training officials, most of whom lack experience in dealing with money laundering issues. Due to a lack of available technology, most analysis of suspicious transactions reports and cash transaction reports is done manually, which increases the risk of human error and corruption. Further progress in implementing the new money laundering legislation will depend on the training and retention of personnel familiar with money laundering and financial crimes, clearer delineation of responsibility between different government entities, and improved ability and willingness of the Public Ministry to aggressively investigate and prosecute financial crimes. The GOH should continue to support the developing government entities responsible for combating money laundering and other financial crime, and ensure that resources are available to strengthen its anti-money laundering regime. The GOH should ensure full implementation and proper oversight of its asset forfeiture program. The GOH should also criminalize terrorist financing. The GOH should adequately supervise and regulate casinos, nongovernmental organizations, including charities, and alternative remittance systems to lessen their vulnerability to abuse by criminal and terrorist organizations and their supporters.

Hong Kong

Hong Kong is a major international financial center. Its low taxes and simplified tax system, sophisticated banking system, the availability of secretarial services and shell company formation agents, and absence of currency and exchange controls facilitate financial activity but also make it vulnerable to money laundering. The primary sources of laundered funds are narcotics trafficking (particularly heroin, methamphetamine, and ecstasy), tax evasion, fraud, illegal gambling and bookmaking, and illegal alien smuggling. Laundering channels include Hong Kong's banking system, and its legitimate and underground remittance and money transfer networks. Hong Kong is substantially in compliance with the Financial Action Task Force's (FATF) Forty Recommendations on Money Laundering, and has pledged to adhere to the Revised 40 FATF Recommendations. Overall, Hong Kong has developed a strong anti-money laundering regime, though improvements should be made. It is a regional leader in anti-money laundering efforts. Hong Kong has been a member of the FATF since 1990. It served as President of the FATF for the 2001/2002 term and served on the FATF's Steering Group from 2001 to 2003.

Money laundering is a criminal offense in Hong Kong under the Drug Trafficking (Recovery of Proceeds) Ordinance (DTRoP) and Organized and Serious Crimes Ordinance (OSCO). The money laundering offense extends to the proceeds of drug-related and other indictable crimes. Money laundering is punishable by up to 14 years' imprisonment and a fine of HK$5,000,000 ($643,000).

Money laundering reporting requirements apply to all persons, including banks and nonbank financial institutions, as well as to intermediaries such as lawyers and accountants. All persons must report

suspicious transactions of any amount to the Joint Financial Intelligence Unit (JFIU). The JFIU does not investigate suspicious transactions itself, but receives, stores and disseminates suspicious transactions reports (STRs) to the appropriate investigative unit. Typically, STRs are passed to either the Narcotics Bureau or the Organized Crime and Triad Bureau of the Hong Kong Police Force, or to the Customs Drug Investigation Bureau of the Hong Kong Customs and Excise Department.

Financial regulatory authorities issue anti-money laundering guidelines to institutions under their purview and monitor compliance through on-site inspections and other means. Hong Kong law enforcement agencies provide training and feedback on suspicious transaction reporting.

Financial institutions are required to know and record the identities of their customers and maintain records for five to seven years. Hong Kong law provides that the filing of a suspicious transaction report shall not be regarded as a breach of any restrictions on the disclosure of information imposed by contract or law. Remittance agents and money changers must register their businesses with the police and keep customer identification and transaction records for cash transactions equal to or over $2,564 (HK$20,000). Hong Kong does not require reporting of the movement of currency above a threshold level across its borders or reporting of large currency transactions above a threshold level.

There is no distinction made in Hong Kong between onshore and offshore entities, including banks, and no differential treatment is provided for nonresidents, including on taxes, exchange controls, or disclosure of information regarding the beneficial owner of accounts or other legal entities. Hong Kong's financial regulatory regimes are applicable to residents and nonresidents alike. The Hong Kong Monetary Authority (HKMA) regulates banks. The Insurance Authority and the Securities and Futures Commission regulate insurance and securities firms, respectively. All three impose licensing requirements and screen business applicants. There are no legal casinos or Internet gambling sites in Hong Kong.

In Hong Kong, it is not uncommon to use solicitors and accountants, acting as company formation agents, to set up shell or nominee entities to conceal ownership of accounts and assets. Hong Kong is a global leader in registering international business companies (IBCs), with nearly 500,000 registered in 2002. Many of the IBCs created in Hong Kong are owned by other IBCs registered in the British Virgin Islands. Many of the IBCs are established with nominee directors. The concealment of the ownership of accounts and assets is ideal for the laundering of funds. Additionally, some banks permit the shell companies to open bank accounts based only on the vouching of the company formation agent. However, solicitors and accountants have filed a low number of suspicious transaction reports in recent years, and have become a focus of attention to improve reporting, as a result.

The open nature of Hong Kong's financial system has long made it the primary conduit for funds being transferred out of China, which maintains a closed capital account. Hong Kong's role has been evolving as China's financial system gradually opens. In November 2003, for instance, China's State Council allowed China's Central Bank, the People's Bank of China, to provide clearing arrangements for banks in Hong Kong to take deposits in the mainland Chinese currency, the yuan, and offer personal banking business in yuan on a trial basis for the first time. This could bring some financial transactions related to China out of the money-transfer industry and into the more highly regulated banking industry. However, this new yuan-denominated banking also carries the risks associated with money laundering.

Under the Drug Trafficking (Recovery of Proceeds) Ordinance (DTRoP) and the Organized and Serious Crimes Ordinance (OSCO), a court may issue a restraining order against a defendant's property at or near the time criminal proceedings are instituted. Both ordinances were strengthened in January 2003, through a legislative amendment lowering the evidentiary threshold for initiating confiscation and restraint orders against persons or properties suspected of drug trafficking. Property includes money, goods, real property, and instruments of crime. A court may issue confiscation orders at the value of a defendant's proceeds from illicit activities. Cash imported into or exported from Hong

Kong that is connected to narcotics trafficking may be seized, and a court may order its forfeiture. As of December 1, 2003, the value of assets under restraint was $164 million, and the value of assets under confiscation order, but not yet paid to the government was $12.98 million, according to figures from the Hong Kong Joint Financial Intelligence Unit. It also reported that as of December 1, 2003, the amount confiscated and paid to the government since the enactment of DTRoP and OSCO was $49.1 million, and a total of 96 persons had been convicted of money laundering over that period. Hong Kong has shared confiscated assets with the United States.

In July 2002, the legislature passed several amendments to the DTRoP and OSCO to strengthen restraint and confiscation provisions. These changes, which became effective on January 1, 2003, include the following: no longer requiring actual notice to an absconded offender; requiring the court to fix a period of time in which a defendant is required to pay a confiscation judgment; permitting the court to issue a restraining order against assets upon the arrest (rather than charging) of a person; requiring the holder of property to produce documents and otherwise assist the government in assessing the value of the property; and creating an assumption under the DTRoP, to be consistent with OSCO, that property held within six years of the period of the violation, by a person convicted of drug money laundering, is proceeds from that money laundering.

Since legislation was adopted in 1994 mandating the filing of suspicious transaction reports (STRs), the number of STRs received by Hong Kong's Joint Financial Intelligence Unit has continually increased. In the first ten months of 2003, a total of 10,149 STRs were filed, compared to a total of 10,871 for the twelve months of 2002. Notwithstanding the trend of increased filings, the Hong Kong Joint FIU hopes to further improve the quality and quantity of STRs by setting up two intelligence analysis teams in April of 2004 in the financial intelligence unit (FIU). They will be tasked with analyzing STRs to develop information that could aid in prosecuting money laundering cases—the number of which has also increased since 1996, soon after the passage of OSCO (1994). In the first nine months of 2003, there were 656 money laundering investigations, compared to 687 cases for all of 2002. In terms of actual prosecutions for money laundering, there were 25 during the first nine months of 2003, compared to 32 for the entire year of 2002. Of the 25 cases prosecuted in this period, 24 of them were prosecuted under OSCO, while only one was prosecuted under DTRoP. From 1996 to September 30, 2003, a total of 163 money laundering cases were prosecuted under OSCO, while only 18 cases were prosecuted under DTRoP.

In July 2002, Hong Kong's legislature passed the United Nations (Anti-Terrorism Measures) Ordinance that criminalizes the supply of funds to terrorists. This legislation was designed to bring Hong Kong into compliance with UNSCR 1373 and the FATF's Special Recommendations on Terrorist Financing. Hong Kong introduced additional legislation in May 2003 to implement UNSCR 1373 and the Financial Action Task Force (FATF) Special Recommendations on Anti-Terrorist Financing. The United Nations (Anti-Terrorism Measures) (Amendment) Bill was submitted to Hong Kong's Legislative Council in May. After the first reading of the bill, it was referred to the Bills Committee for consideration. The bill aims to implement the remaining requirements of the international conventions against terrorism under UNSCR 1373 and the FATF Special Recommendations.

Hong Kong's financial regulatory authorities have directed the institutions they supervise to conduct record searches for terrorist assets using U.S. Executive Order 13224 and United Nations lists. By late 2003, Hong Kong had applied eight of the twelve international antiterrorism conventions, and the government had submitted legislation to Hong Kong's Legislative Council to apply two more. The People's Republic of China has yet to ratify two conventions—the International Convention for the Suppression of the Financing of Terrorism and the Convention on the Physical Protection of Nuclear Material. As such, they have yet to be applied in Hong Kong, since the PRC represents Hong Kong on defense and foreign policy matters, including UN affairs.

In 2003, Hong Kong financial authorities arranged outreach activities to raise awareness of terrorism financing in the financial community. For instance, Hong Kong's bank regulatory agency restructured its bank examinations to focus more on antiterrorism financing. Also, the Hong Kong Monetary Authority (HKMA) drafted a best practice guide for use by financial institutions on how to guard against money laundering in alternative remittance systems and wire transfers. The HKMA, the Securities and Futures Commission (SFC), and the Insurance Authority also circulated new regulations and best practice guides regarding the reporting of terrorist-related property. The Hong Kong government has modified its regulations in line with the FATF's updating of its recommendations. On February 1, 2002, the FATF held a Special Forum on Terrorist Financing at the close of the FATF Plenary meeting in Hong Kong, which was attended by FATF members and members of the FATF-style regional bodies. Hong Kong continued to serve as a FATF Steering Group member until June 30, 2003, during which time it participated in the FATF's Terrorist Financing Working Group, which clarified recommendations on freezing terrorist assets and on combating the abuse of alternative remittance systems and nonprofit organizations.

Domestically, Hong Kong's judicial system tried one terrorism-related case in 2003, pursuant to Section 11(2) of the United Nations antiterrorism measures ordinance. The case concerned a man claiming to be a terrorist who made a hoax bomb threat at a hotel. The man had a previous record of psychiatric treatment, and was sentenced to serve a six-month hospital order. Also, in 2002 and 2003, Hong Kong authorities cooperated with U.S. law enforcement in a case involving the exchange of drugs for Stinger missiles allegedly for use by al-Qaida in 2002. In a sting operation coordinated with the U.S., the suspects came to Hong Kong to finalize the deal, and were arrested in 2002. Hong Kong extradited them to the U.S. in 2003. The Hong Kong police also assisted the U.S. in additional terrorism investigations in 2003. In one such case, Hong Kong provided law enforcement assistance in a case involving seven people charged with conspiracy to provide material support to terrorist organizations.

In 2003, Hong Kong took part in the International Monetary Fund's Financial Sector Assessment Program (FSAP), which aims to strengthen the financial stability of a jurisdiction by identifying the strengths and weaknesses of its financial system and assessing compliance with key international standards. As part of the FSAP, a team of IMF and World Bank-sponsored legal and financial experts assessed the effectiveness of Hong Kong's antiterrorist financing regime against the FATF Forty Recommendations and the FATF Eight Special Recommendations on Terrorist Financing. In its assessment published in June 2003, the IMF described Hong Kong's anti-money laundering measures as "resilient, sound, and overseen by a comprehensive supervisory framework."

At the October 2002 meeting of the Asia/Pacific Group on Money Laundering (APG), the Hong Kong delegation noted that underground banking and remittance agents remain major mechanisms through which criminals transfer proceeds of crimes across borders. Another major area of concern for Hong Kong is the laundering of criminal proceeds by nonfinancial services professionals.

Through the PRC, Hong Kong is subject to the 1988 UN Drug Convention. It is an active member of the FATF and Offshore Group of Banking Supervisors and also a founding member of the APG. Hong Kong's banking supervisory framework is in line with the requirements of the Basel Committee on Banking Supervision's "Core Principles for Effective Banking Supervision." Hong Kong's JFIU is a member of the Egmont Group and is able to share information with its international counterparts. Hong Kong cooperates closely with foreign jurisdictions in combating money laundering. Hong Kong's mutual legal assistance agreements provide for the exchange of information for all serious crimes, including money laundering, and for asset tracing, seizure, and sharing. Hong Kong signed and ratified a mutual legal assistance agreement with the United States that came into force in January 2000.

As of October 2003, Hong Kong had mutual legal assistance agreements with a total of fifteen other jurisdictions: Australia, Canada, the U.S., Italy, the Philippines, the Netherlands, Ukraine, Singapore, Portugal, Ireland, France, the United Kingdom, New Zealand, the Republic of Korea, and Switzerland. Hong Kong has also signed surrender of fugitive offenders agreements with 13 countries—including the U.S.—and has signed transfer of sentenced persons agreements with seven countries, including the U.S. Hong Kong authorities exchange information on an informal basis with overseas counterparts, with Interpol, and with Hong Kong-based liaison officers of overseas law enforcement agencies. An amendment to the Banking Ordinance in 1999 allows the HKMA to disclose information to an overseas supervisory authority about individual customers, subject to conditions regarding data protection. The HKMA has entered into memoranda of understanding with overseas supervisory authorities of banks for the exchange of supervisory information and cooperation, including on-site examinations of banks operating in the host country.

Hong Kong should strengthen its anti-money laundering regime by establishing threshold reporting requirements for currency transactions and putting into place "structuring" provisions to counter evasion efforts. Hong Kong should also establish cross-border currency reporting requirements and encourage more suspicious transactions reporting by lawyers and accountants, as well as business establishments, such as auto dealerships, real estate companies, and jewelry stores. Hong Kong should also take steps to thwart the use of "shell" companies, IBCs, and other mechanisms that conceal the beneficial ownership of accounts by more closely regulating corporate formation agents.

Hungary

Hungary has a pivotal location in Central Europe, with a well-developed financial services industry. Criminal organizations from Russia and other countries are entrenched in Hungary. The economy is largely cash-based.

Hungary has an offshore market but prohibits offshore companies from providing financial and banking services. Hungary has licensed approximately 600 international businesses that are mainly owned by foreigners and enjoy a corporate tax rate of three percent as opposed to the usual rate of 18 percent. This favorable tax treatment will be abolished, effective in 2005. Hungary does not have current provisions concerning the criminal liability of legal persons. Act CIV of 2001, which addresses this omission, is expected to enter into force on May 1, 2004—the day the Act Proclaiming the International Treaty on the Accession of the Republic of Hungary to the European Union enters into force.

Money laundering related to all serious crimes is a criminal offense in Hungary. In April 2002, Section 303 of the Penal Code on Money Laundering was amended to criminalize the laundering of one's own proceeds, laundering through negligence, and conspiracy to commit money laundering, as punishable offenses. Laundering one's own proceeds has been applied in cases currently under investigation. The Government of Hungary (GOH) has also adopted a new government decree to further strengthen its Financial Intelligence Unit (FIU) and tighten anti-money laundering provisions.

Act No. XV of 2003, "On the Prevention and Impeding of Money Laundering," which passed on February 25, 2003 and became effective June 16, 2003, amends the 1994 law, criminalizing tipping off and forcing self-regulating professions to submit internal rules to identify asset holders, track transactions, and report suspicious transactions. Self-regulating bodies have oversight responsibility but are not required to report suspicious transactions themselves. Hungary's financial regulatory body, the Hungarian Financial Supervisory Authority (PSzAF), will harmonize these rules and ensure compliance. In addition, more professions were added to the list of obligated entities, including lawyers and notaries. These professions, like others without a supervisory body, will be supervised by Hungary's FIU, the Anti-Money Laundering Section (AMLS). The Act also places Hungary's laws into compliance with the Second European Union (EU) Directive and settles all aspects of the

regulations previously left pending, such as the coverage of lawyers, notaries and nonfinancial businesses and professions. The amendments also set a deadline of December 31, 2003, for financial institutions to register their client information into their records. However, because of concerns expressed by banks regarding the new identification requirements, this deadline has been extended to April 2004. 2003 also brought changes in the cross-border currency transactions; now, all monetary instruments exceeding one million Hungarian forint (HUF) (about 3,800 euro) must be reported to customs at the border, with the penalty for nonreporting 50,000 HUF and confiscation. On July 1, 2003, Hungary's new Criminal Procedure Code went into effect.

In January 2002, the GOH created the Commission for Anti-Money Laundering Policy to better implement and coordinate efforts to improve Hungary's anti-money laundering regime. This is an inter-ministerial body incorporating the FIU, Ministries of Finance, Justice, Interior, the Prosecutor's Office, Supreme Court and PSzAF. The Commission is particularly important with regard to combating terrorism, because of its ability to respond quickly and effectively to international requests to identify and freeze assets of terrorists.

The cross-border movement of cash greater than one million HUF (approximately $4,000) must be declared to the customs authority, which immediately forwards it to the AMLS. Reporting and record keeping requirements, internal control procedures, and customer identification practices are required for a broad range of financial institutions. Banks, insurance companies, securities brokers and dealers, investment fund management companies, and currency exchange houses must file suspicious transaction reports (STRs), including those that could be related to terrorist financing.

That requirement must now be met by other classes of professionals, including attorneys, antique dealers, casinos, tax consultants, real estate sales people, and accountants. Due diligence regarding the identification of beneficial owners must be exercised.

Hungary's financial regulatory body, PSzAF, supervises the financial sector, including compliance with anti-money laundering requirements and including bureaux de change. PSzAF oversees about 2,000 institutions. PSzAF has authority to conduct money laundering inspections and to impose sanctions upon noncompliant institutions. In 2002, PSzAF decided to increase oversight over the currency exchange sector by forcing moneychangers without an agreement with a commercial bank to cease operations on July 1, 2002. Of the 120 completed on-site inspections of financial institutions conducted between July 1, 2002, and June 1, 2003, PSzAF found irregularities serious enough to justify supervisory sanctions, including fines. Most fines were due to deficiencies in customer identification and registration procedures. By June 2003, PSzAF had withdrawn the licenses of three bureaux de change because of faulty internal regulations. In the third quarter of 2003, PSzAF undertook 74 specific money laundering inspections, and one case is currently under investigation. In October 2003, legislation was submitted to Parliament that would restructure the PSzAF (effective by 2004). It eliminates the current one-person head of PSzAF, replacing it with a board of supervisors elected by Parliament at the proposal of the Prime Minister and President. In addition, the Finance Minister's supervision would be more explicitly set forth. It appears that the independence of PSzAF will remain unaffected and the amendment could, in fact, have the potential to increase PSzAF's accountability in supervising financial markets.

In June 2001, the FATF placed Hungary on the list of noncooperative countries and territories (NCCT), in the fight against money laundering, principally due to the continued existence of anonymous savings accounts and the lack of concrete plans for their elimination. In its accompanying report, the FATF also noted as a deficiency the fact that Hungarian financial institutions failed to collect information concerning the beneficial owners of accounts. The U.S. Treasury issued an advisory to all U.S. financial institutions instructing them to "give enhanced scrutiny" to all financial transactions involving Hungary. As a result of actions taken by Hungary in 2001 and 2002 to correct

those deficiencies, the FATF removed Hungary from the NCCT list and the U.S. advisory was lifted. In summer 2003 the FATF lifted its monitoring of Hungary entirely.

As of January 1, 2002, all anonymous passbook accounts were to be phased out. Now, savings deposits may only be placed or accepted on a registered basis by identifying both the depositor and the beneficiary. The GOH concentrated on the accounts with the largest deposits during the first six months of 2002. After July 1, 2002, any conversion of anonymous passbooks holding more than two million HUF (approximately $8,800) was automatically forwarded to the AMLS. After December 31, 2004, conversion of any remaining accounts will need written permission from the AMLS. By June 2003, 90 percent of the anonymous passbooks had been transferred to identifiable accounts. A recent modification of the Anti-Money Laundering legislation (2003. XV) requires that all account holders who have not provided the required identification data and/or have not declared sole authority over their account and named beneficiaries should provide such information by April 1, 2004 or their transactions will be denied.

Also as of January 1, 2002, only credit institutions and their agents may be authorized by the PSzAF to offer currency exchange services, and as of January 2003, currency exchange activities are licensed and supervised by the PSzAF. Under new regulations, managers and employees of bureaux de change are subject to enhanced scrutiny, including a criminal background check. Some of this enhanced scrutiny will be conducted by the AMLS. In addition, the exchange services have to carry out a legally required identification procedure and file an STR with AMLS for any currency exchange transaction meeting or exceeding 300,000 HUF (approximately $1,300). The bureaux also are required to have in operation video surveillance systems in their offices to record currency exchange activities.

A reorganization has placed the AMLS in the Directorate against Organized Crime (ORFK(SZEBI)). As a police unit, the AMLS also investigates cases. The AMLS has considerable authority to request and release information, nationally and internationally, related to money laundering investigations. To December 2003, AMLS received 11,269 STRs, 2000 from nonbanking institutions. Staffing at the AMLS has tripled since 2002 in order to deal with the rapid increase in the number of STRs received from the expanded range of reporting institutions, and further increases are coming, commensurate with its increased responsibility. AMLS staff members, along with PSzAF employees, are involved in training and raising awareness of employees within the obligated institutions, as well as members of the general public. Most recently, they held training for police, prosecutors, and customs agents in May 2003. Of the STRs received in 2003, only ten are currently under investigation. AMLS officials note that there are problems with the quality of the reporting as well as overreporting due to a fear of negligent money laundering. On January 14, 2004 Monika Lamperth, Minister for Home Affairs, announced the replacement of the Directorate Against Organized Crime, incorporating AMLS with a National Bureau of Investigation. The reorganization of SZEBI and the AMLS will take place in summer 2004. At this point it appears that the AMLS, which is a clearly defined, separate unit, would be merged and/or incorporated into other police sections.

In 2000, Hungary established a criminal investigation bureau within the Tax and Financial Inspection Service, to help spur tax and money laundering prosecutions. Based on information derived from STRs, the GOH initiated ten money laundering investigations in 2003. Two individuals were apprehended and arrested, resulting in two prosecutions—one acquittal and one conviction. In these cases, the predicate offense was fraud. Recent legislative changes, including one that clarifies that money laundering convictions can be obtained without conviction on the predicate offense, may well increase the number of money laundering prosecutions and convictions.

In June 2003, a money laundering scandal broke involving a Hungarian subsidiary of a Dutch-owned bank. A broker apparently skimmed funds from some clients in order to pad the returns of other, more favored clients. Money was laundered through several banks as well as some foreign nationals. The AMLS is currently investigating the case, which has expanded to 12 suspects and financial damages

estimated at $45 million. With the organizational changes in AMLS, it is unclear how long it will take to conclude the investigation. It also is unclear whether PSzAF could be held responsible for improper reporting, as it warned the bank of improper recording procedures as early as 2000. The prosecution has denied the AMLS request to call the Head of PSzAF as a witness and has not responded to repeated requests for supporting evidence.

Act CXXI of 2001 provides for reversal of the burden of proof in cases of confiscations from persons part of a criminal organization; however, this provision has not been used in practice. Hungary's confiscation regime is also defined by Act CXXI of 2001, which came into force on April 1, 2002, and considers all benefits or enrichment originating from a criminal act to be illegal. The present provision in force contains no reference to the knowledge of the origin of assets as a condition of asset confiscation from third parties, although assets obtained by a third party in a bona fide manner may not be confiscated. Hungary cooperates with requests for provisional orders, in one case freezing a bank account, in another freezing all assets, and in a third case carrying out an external confiscation order for the German Ministry of Justice in accordance with the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

In November 2001, the Hungarian Parliament approved Parliamentary Resolution 61/2001 (IX.24) on Hungary's contribution to Operation Infinite Justice (the U.S. operation against Afghanistan), Parliamentary Resolution 62/2001 (IX.25) on foreign and security policy measures undertaken by Hungary following the terrorist attacks on the United States, and Bill No. T/5216 on counterterrorism and money laundering. The last was passed on November 27, 2001, and authorizes economic and other sanctions against countries, their commercial enterprises, and their citizens involved in terrorism. It also empowers the GOH to immediately impose further restrictions on the basis of UN Security Council resolutions or positions held by the Council of Europe, and eliminates legal ambiguities concerning the search for and seizure of terrorist assets.

The AMLS also carries out intelligence activity regarding terrorism financing, by way of receiving disclosures from institutions, information exchange with foreign counterparts, and examination and provision to relevant authorities of the lists of persons and organizations related to terrorism issued by the United States, the UN 1267 Sanctions Committee, and the EU Council. Thus far, no such accounts or transactions have been identified, but the GOH authorities state they are prepared to freeze any such accounts in the future. With the Act on the International Co-Operation of Investigative Bodies, AMLS has the right to directly exchange information with all types of FIUs. (The head of the National Police still retains the right to sign MOUs.)

Hungary is party to a Mutual Legal Assistance Treaty with the United States, and signed, in January of 2000, a nonbinding information-sharing arrangement with the United States, which is intended to enable U.S. and Hungarian law enforcement to work more closely to fight organized crime and illicit transnational activities. In furtherance of this goal, in May 2000, Hungary and the U.S. Federal Bureau of Investigation established a joint task force to combat Russian organized crime groups. Hungary has signed similar cooperation arrangements with 22 other countries and has arrangements for the exchange of information related to money laundering with Austria, Slovakia, and Cyprus. The AMLS has been a member of the Egmont Group since 1998.

Hungary is a member of the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) and underwent a mutual evaluation in 1998. Hungary is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Hungary also signed the UN Convention Against Corruption on December 10, 2003. Hungary became a party to the UN International Convention for the Suppression of the Financing of Terrorism in October 2002.

While it is clear that Hungary has made progress in improving anti-money laundering legislation, there is room for improvement, particularly in financial supervision and prosecution. Hungary should

continue to improve the effectiveness of its prosecutions by further training prosecutors, judges, and police so that it may successfully prosecute money laundering cases under the post-2001 legislation. The GOH should criminalize terrorist financing. The GOH should also move forward to implement effectively its new legislation so that its anti-money laundering regime comports with international standards.

Iceland

Money laundering is not considered a major problem in Iceland. A 1997 amendment to the criminal code criminalizes money laundering regardless of the predicate offense, although the maximum penalty for money laundering is greater when it involves drug trafficking. The Icelandic Penal Code specifies that sentences be determined based on the worst crime. Therefore, if a case involves both drug offenses and money laundering, the sentence will be based on the laws that concern the drug case. In cases that concern money laundering activities only, the maximum sentence is ten years' imprisonment.

Iceland based its money laundering law on the Financial Action Task Force's (FATF's) Forty Recommendations. In 1999, Iceland amended its 1993 Act on Measures to Counteract Money Laundering (MCML). The amendments increase the number and types of occupations and individuals that fall under the anti-money laundering law. The amendment also applies due diligence laws to all banks, nonbanking financial institutions, and intermediaries (such as lawyers and accountants). There are provisions in the law that allow for a fine or imprisonment for up to two years for failure to comply.

In 2003, two additional amendments were made to counteract money laundering. The first amendment is based on the European Union Directive and requires the National Commissioner of Police to provide the public with general information and advice on how to detect money laundering and suspicious transactions. Additionally, the first amendment requires banks and financial institutions to pay special attention to noncooperative countries and territories (NCCTs) that do not follow international recommendations on money laundering. The Financial Supervisory Authority (FME), the main supervisor of the Icelandic financial sector, is to publish announcements and instructions if special caution is needed in dealing with any such country or territory.

The second amendment to the MCML moves the responsibility of the National Registry of Firms from the Icelandic Statistical Office to the Internal Revenue Directorate. This amendment imposes new obligations on legal entities to provide greater information about their activities when registering, and increases the measures that Icelandic authorities can take to enforce the MCML.

The MCML requires banks and other financial institutions, upon opening an account or depositing assets of a new customer, to have the customer prove his or her identity by presenting personal identification documents. Additionally, if the individual is not a regular customer, the financial institution is required to obtain proof of identification for transactions in excess of 1,000,000 krona (approximately $15,000). The financial institutions may also request identification for transactions under the reporting requirement if the transaction is of a suspicious nature.

Financial institutions record the name of every customer who seeks to buy or sell foreign currency. All records necessary to reconstruct significant transactions are maintained for at least seven years. Employees of financial institutions are protected from civil or criminal liability for reporting suspicious transactions. The MCML requires that banks and other financial institutions report all suspicious transactions to the Economic Crime Division of the National Commissioner of Police, which is Iceland's financial intelligence unit (FIU).

Suspicious transaction reports (STRs) are on the rise in Iceland, but the authorities believe this increase is due to increased training of bank employees, increasing cooperation between authorities

and financial institutions, and an increased awareness of the importance of the issue. During the first 11 months of 2002, the number of STRs totaled 163 and for the same period in 2003 the number had increased to 213. All the STRs in 2003 were domestic in origin and were either narcotics-related (83 percent) or financial transaction-related (17 percent). The ratio of STRs that are linked to illegal financial operations has been increasing in recent years.

The first successful prosecution under the money laundering law occurred in 2000. Five additional cases were tried in 2001, all of which resulted in convictions; three were appealed to the Supreme Court where the convictions were upheld. There were no prosecutions in 2002. In 2003 two cases were tried and resulted in convictions, but they also may be appealed to the Supreme Court.

The Icelandic National Commissioner of Police's Economic Crime Division (NCP) is the primary government agency responsible for asset seizures. According to Iceland's Code on Criminal Procedure, if there is suspicion of criminal activity, the NCP can take measures such as freezing or seizing funds. There are no significant obstacles to asset seizure, as long as the NCP, when requesting such measures, can demonstrate a reasonable suspicion of illegal activity to the court. The FME and the NCP make every effort to enforce existing drug-related asset seizure and forfeiture laws. Asset seizure has in recent years become quite common in embezzlement crimes, while only a small fraction of total asset seizures have related to money laundering. Under the Icelandic Penal Code, any assets confiscated on the basis of money laundering investigations must be delivered to the Icelandic State Treasury. There have been no instances of the U.S., or another government, requesting seized assets from Iceland. If such a situation arose, the sharing of seized assets with another government would only become possible through new legislation drafted for this specific purpose.

The Parliament of Iceland passed comprehensive domestic legislation that specifically criminalizes terrorism and terrorist acts and requires the reporting of suspected terrorist-linked assets and transactions involving possible terrorist operations or organizations. In March 2003, an amendment to the Law on Official Surveillance on Financial Operations was passed. It strengthens Iceland's ability to adhere to international money laundering and asset freezing initiatives and agreements. In accordance with international obligations or resolutions to which Iceland is a party, the FME shall publish announcements on individuals or legal entities (companies) whose names appear on the UN or European Union lists and whose assets or transactions Icelandic financial institutions are specifically obliged to report to authorities and freeze. Prior to the amendment the government had to publish the names of terrorist individuals and organizations in the National Gazette in order to make them subject to asset freezing. The government formally enacted financial freeze orders against individuals and entities on the UNSCR 1267/1390 consolidated list of terrorists. Government of Iceland (GOI) officials have said they will consider applying their terrorist asset freeze strictures against U.S.-only designated entities (i.e., names not on UN or EU lists), on a case-by-case basis. To date, Iceland has discovered no terrorist-related assets or financial transactions.

When dealing with other European Economic Areas (EEA) member countries, the FME can disclose confidential information to their supervisory authorities provided that this sharing constitutes an act of law enforcement cooperation and is beneficial for conducting investigations of suspicious money laundering activities, and information provided is kept confidential by the receiving countries' authorities as prescribed by law. Concerning requests for information from countries outside of the EEA, the FME may, on a case-by-case basis, disclose to supervisory authorities information under the same conditions of confidentially. To date there have been no requests from either EEA or non-EEA countries for an exchange of information concerning suspected acts of money laundering. This likely explains why there is currently no agreement (or discussions toward one) between Iceland and the U.S. to exchange information concerning financial investigation, and no MLAT (Mutual Legal Assistance Treaty). The National Commissioner of Police has acted on tips from foreign law enforcement agencies in the investigation of money laundering activities, and the process of

international cooperation with the law enforcement authorities of other countries appears to work smoothly.

Iceland is a party to the 1988 UN Drug Convention; the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime; and the UN International Convention for the Suppression of the Financing of Terrorism. Iceland has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Iceland is party to several multilateral conventions on terrorism and rules of territorial jurisdiction, including the 1977 European Convention on the Suppression of Terrorism. Iceland is a member of the FATF, and its financial intelligence unit is a member of the Egmont Group.

Iceland should continue to enhance its anti-money laundering/antiterrorist financing regime. If it has not already done so, Iceland should specifically criminalize the financing of terrorism and terrorists.

India

As a growing regional financial center, India is vulnerable to money laundering activities. Some common sources of illegal proceeds in India are narcotics trafficking, trade in illegal gems (particularly diamonds), smuggling, trafficking in persons, corruption, and income tax evasion. However, India's historically strict foreign-exchange laws, transaction reporting requirements, and banking industry's know-your-customer policy make it difficult for criminals to use banks or other financial institutions to launder money. Rather, large portions of illegal proceeds are laundered through the alternative remittance system called "hawala" or "hundi" (estimated to account for up to 30 percent of India's GNP). Under this system, individuals transfer funds or other items of value from one country to another, often without the actual movement of currency. The system provides anonymity and security; permits individuals to convert currency into other currencies; and lets them convert narcotics, gold, or trade items into currency. In addition, many individuals are suspicious of banks and prefer to avoid the lengthy paperwork required to complete a money transfer through a financial institution. Hawala dealers can provide the same service with little or no documentation and at rates less than that charged by banks.

Historically, gold has been one of the most important instruments involved in Indian hawala transactions. There is a widespread cultural demand for gold in the region. (India liberalized its gold trade restrictions in the mid-1990s). In recent years, it is believed that the growing the Indian diamond trade has also been increasingly important in providing countervaluation or a method of "balancing the books" in external hawala transactions. Invoice manipulation, for example, inaccurately reflecting the value of a good sold on the invoice, is also pervasive and is used extensively to both avoid customs duties and taxes and launder illicit proceeds through trade-based money laundering.

Perhaps the largest source of money laundering activity in India is income tax evasion. Changes in the tax system are gradually being implemented, as the Government of India (GOI) now requires individuals to use a personal identification number to pay taxes, purchase foreign exchange, and apply for passports. However, tax evasion remains widespread.

The Criminal Law Amendment Ordinance allows for the attachment and forfeiture of money or property obtained through bribery, criminal breach of trust, corruption, or theft and of assets that are disproportionate to an individual's known sources of income. The 1973 Code of Criminal Procedure, Chapter XXXIV (Sections 451-459), establishes India's basic framework for confiscating illegal proceeds. The Narcotic Drugs and Psychotropic Substances Act (NDPS) of 1985, as amended in 2000, calls for the tracing and forfeiture of assets that have been acquired through narcotics trafficking, and prohibits attempts to transfer and conceal those assets. However, punishment under NDPS is minimal and no cases have been prosecuted to date. In 2002, the last year for which statistics are available, the

Narcotics Control Bureau froze assets of about $104,000; about $262,000 was forfeited pursuant to the NDPS, although there still have not been any prosecutions.

The Foreign Exchange Management Act (FEMA), which was enacted in 2000, is one of the GOI's primary tools for fighting money laundering. Like its predecessor, the Foreign Exchange Regulation Act, the FEMA's objectives include the establishment of controls over foreign exchange, the prevention of capital flight, and the maintenance of external solvency. FEMA also imposes fines on unlicensed foreign exchange dealers. A closely related piece of legislation is the Conservation of Foreign Exchange and Prevention of Smuggling Act (COFEPOSA), which provides for preventive detention in smuggling and other matters relating to foreign exchange violations. The Ministry of Finance's Enforcement Directorate enforces FEMA and COFRPOSA.

The Reserve Bank of India (RBI), India's Central Bank, plays an active role in the regulation and supervision of foreign exchange transactions. Hawala can also be synonymous with foreign exchange. Although hawala is widespread in India, hawala transactions continue to be illegal. In response to questions from U.S. Treasury officials in November 2003 about the possibility of having hawala dealers register, as has been the case in some neighboring jurisdictions, Indian Ministry of Finance (MOF) officials said they have no plans to do so. RBI has become more receptive to anti-money laundering initiatives, especially those related to terrorist financing, and in 2002 set up a special unit to provide anti-money laundering guidance to the Ministry of Finance (MOF). RBI worked with the police in the state of Kashmir to provide financial information in relation to a fraud case. Also in 2002, the Government of India (GOI) formed a high-level interministerial group to coordinate all anti-money laundering and terrorist financing issues. The group includes representatives from the regulatory, law enforcement, and intelligence communities.

On November 27, 2002, the lower house of Parliament finally passed the Prevention of Money Laundering Bill, which had first been introduced in 1998. The bill was amended in August 2002 by the upper house to include terrorist financing provisions. India's President signed the law in January, 2003. This legislation criminalizes money laundering, establishes fines and sentences for money laundering offenses, imposes reporting and record keeping requirements on financial institutions, provides for the seizure and confiscation of criminal proceeds, and creates a financial intelligence unit (FIU) that will be part of the MOF. However, MOF officials note that the law does not, significantly, list tax evasion as a predicate offense. A series of implementing rules and regulations to the law will be finalized in early 2004.

Many banking institutions have taken steps on their own to combat money laundering. Each bank has compliance officers to ensure that existing anti-money laundering regulations are observed. The RBI issued a notice in 2002 to commercial banks instructing them to adopt the know-your-customer rule. The Indian Bankers Association established a working group to develop self-regulatory anti-money laundering procedures. Foreign customers applying for accounts in India must show positive proof of identity when opening a bank account. Banks also require that the source of funds must be declared if the deposit is more than the equivalent of $10,000. Finally, banks have the authority to freeze assets in accounts when there is suspicious activity.

The new FIU is scheduled to become operational in January 2004. The FIU will be an independent unit located within the MOF's Central Economic Intelligence Bureau. Its initial staff of about 50 people will come from various government ministries, including the security agencies, RBI, Customs, Inland Revenue, and the private sector. Top management will come from the MOF's revenue department. It will be an analytical unit and will not have investigative powers.

Until the new FIU becomes fully operational, the Central Economic Intelligence Unit (CEIB) will continue to serve as the GOI's lead organization for fighting financial crime; it already receives suspicious transaction reports, of which, according to GOI officials in November 2003, there is a backlog. The Central Bureau of Investigation is also active in anti-money laundering efforts and

hawala investigations. Other organizations such as the Directorate of Revenue Intelligence, Customs and Excise, the RBI, and the MOF are active in anti-money laundering efforts.

India does not have an offshore financial center but does license offshore banking units (OBUs). These OBUs are required to be " . . . predominantly owned by individuals of Indian nationality or origin resident outside India and include overseas companies, partnership firms, societies and other corporate bodies which are owned, directly or indirectly, to the extent of at least 60 percent by individuals of Indian nationality or origin resident outside India as also overseas trusts in which at least 60 percent of the beneficial interest is irrevocably held by such persons." OBUs must also be audited to affirm that ownership by a nonresident Indian is not less than 60 percent. These entities are susceptible to money laundering activities, in part because of a lack of stringent monitoring of transactions. Finally, OBUs must be audited financially, but the firm that does the auditing does not have to have government approval.

India is a party to the 1988 UN Drug Convention, and is a member of the Asia/Pacific Group on Money Laundering. It is a signatory to but has not yet ratified the UN Convention against Transnational Organized Crime. In October 2001, India and the United States signed a mutual legal assistance treaty, which the U.S. Senate ratified in November 2002. India took steps in 2003 to move towards ratification of the treaty. The Cabinet Committee on Security will make the formal decision on ratification, which is expected in early 2004. India has also signed a police and security cooperation protocol with Turkey, which among other things provides for joint efforts to combat money laundering. An evaluation team from the FATF was scheduled to visit India during the second half of December 2003, preparatory to India's joining that organization. The nascent FIU, after it becomes operational, will seek to join the Egmont Group.

India became a party to the UN International Convention for the Suppression of the Financing of Terrorism in April 2003. The Government of India maintains tight controls over charities, which are required to register with the RBI. In April 2002, the Indian Parliament passed the Prevention of Terrorism Act (POTA), which criminalizes terrorist financing. In March 2003, the GOI announced that it had charged 32 terrorist groups under POTA and had notified three others that they were involved in what were considered illegal activities. In July 2003, the GOI announced that it had arrested 702 persons under POTA. Terrorism financing in India, as well as the entire sub-continent, is directly linked to the use of hawala.

India should cooperate fully with international initiatives to provide increased transparency in hawala, and, if necessary, should increase law enforcement actions in this area. Indian involvement in the underworld of the international diamond trade should be examined. India should pursue its efforts to join the FATF. It also needs to quickly finalize the implementing regulations to the anti-money laundering law and bring the new FIU up to speed in order to enhance information sharing with its counterparts around the world. Meaningful tax reform will also assist in negating the popularity of hawala and lessen money laundering. Increased enforcement action should also be taken to combat invoice manipulation and trade-based money laundering.

Indonesia

Although neither a regional financial center nor an offshore haven, Indonesia remains vulnerable to money laundering and terrorist financing due to the lack of a poorly regulated financial system, the lack of effective law enforcement and widespread corruption.

Most laundered money derives from nondrug criminal activity such as gambling, prostitution, bank fraud, or corruption. Indonesia also has a long history of smuggling, facilitated by thousands of miles of unpatrolled coastline and a law enforcement system riddled with corruption. The proceeds of these

illicit activities are easily parked offshore and only repatriated as required for commercial and personal needs.

The Financial Action Task Force (FATF) included Indonesia on the list of noncooperating countries and territories (NCCT) at its June 2001 plenary. The designation was based on the following: Indonesia had no basic set of anti-money laundering provisions, money laundering was not a criminal offense, there was no reporting of suspicious transactions to a financial intelligence unit (FIU), and recently introduced customer identification requirements only applied to banks. The U.S. Treasury Department issued an advisory to all U.S. financial institutions instructing them to "give enhanced scrutiny" to all transactions involving Indonesia; the advisory is still in effect. Indonesia remained on the FATF NCCT list, as of December 2003.

Until recently, banks and other financial institutions did not routinely question the sources of funds or require identification of depositors or beneficial owners. Financial reporting requirements were put in place only in the wake of the financial crisis when the Government of Indonesia (GOI) became interested in controlling capital flight and recovering foreign assets of large-scale corporate debtors or alleged corrupt officials.

In April 2002, Indonesia passed Law No. 15 on Criminal Acts of Money Laundering, Indonesia's anti-money laundering (AML) law, which made money laundering a criminal offense. The law identifies 15 predicate offenses related to money laundering, including narcotics trafficking and most major crimes. The law provides for the establishment of a financial intelligence unit (FIU), the Center for Reporting and Analysis of Financial Transactions (PPATK), to develop policy and regulations to combat money laundering. The PPATK was established in December 2002 and became fully functional in October 2003.

The PPATK is an independent agency that receives, maintains, analyzes, and evaluates currency and suspicious financial transactions, provides advice and assistance to relevant authorities, and issues publications. As of September 2003, the PPATK has received 244 STRs from over 27 banks. 43 STRs have been referred to the police; four STRs has been referred to the Attorney General. However, no cases have progressed o the level of court hearings.

In September 2003, Parliament passed The Amending Law that amended its anti-money laundering legislation. The FATF publicly welcomed this law which addresses the key deficiencies previously identified by the FATF. As a result this substantial progress, Indonesia avoided additional countermeasures and was invited to submit an implementation plan.

The Amending Law provides a new definition of the crime of money laundering making it an offense for anyone to deal intentionally with assets known or reasonably suspected to constitute proceeds of crime with the purpose of disguising or concealing the origins of the assets, as seen in Articles 1(1) and 3. The Amending Law removes the threshold requirement for proceeds of crime and expands the definition of proceeds of crime to cover assets employed in terrorist activities. Article 1(7)(c) expands the definition of Suspicious Transaction Reports (STR) to include attempted or unfinished transactions. Article 12A introduces a scheme of administrative sanctions (in addition to criminal sanctions) for failure to make STRs. Article 13(2) shortens the time to file an STR to 3 days or less after the discovery of an indication of the suspicious transaction. Article 17A creates an offense of disclosing information about reported transactions to third parties, which carries a maximum of five years' imprisonment and a maximum of one billion rupiah (approximately $118,000). Articles 44 and 44A provide for mutual legal assistance, with the ability to provide assistance using the compulsory powers of the court. Article 44B imposes a mandatory obligation on the PPATK to implement provisions of international conventions or recommendations on the prevention and eradication of money laundering.

Bank Indonesia (BI), the Indonesian Central Bank, issued Regulation No. 3/10/PBI/2001, "The Application of Know Your Customer Principles," on June 18, 2001. This regulation requires banks to obtain information on prospective customers, including third party beneficial owners, and to verify the identity of all owners, with personal interviews if necessary. The regulation also requires banks to establish special monitoring units and appoint compliance officers responsible for implementation of the new rules and to maintain adequate information systems to comply with the law. Finally, the regulation requires banks to analyze and monitor customer transactions and report to BI within seven days any "suspicious transactions" in excess of Rp 100 million (approximately $11,800). The regulation defines suspicious transactions according to a 39-point matrix that includes key indicators such as unusual cash transactions, unusual ownership patterns, or unexplained changes in transactional behavior. BI specifically requires banks to treat as suspicious any transactions to or from countries "connected with the production, processing and/or market for drugs or terrorism."

Separately, banks must report all foreign exchange transactions and foreign obligations to BI. Individuals who import or export more than Rp 100 million in cash must report such transactions to Customs. The PPATK is currently drafting presidential decrees that would protect reporting individuals and witnesses who cooperate with law enforcement entities on money laundering cases.

Indonesia has bank secrecy laws concerning information regarding a depositor and his accounts. Such information is generally kept confidential and can only be accessed by the authorities in limited circumstances. However, Article 27(4) of the ML Law now expressly exempts the PPTAK from "the provisions of other laws related to bank secrecy and the secrecy of other financial transactions" in relation to its functions in receiving and requesting reports and conducting audits of providers of financial services. In addition, Article 14 of the ML exempts providers of financial services from bank secrecy provisions when carrying out their reporting obligations, and Article 15 of the Law gives providers of financial services, their official and employees protection from civil or criminal action in making such disclosures.

Indonesia's laws provide only limited authority to block or seize assets. Under BI regulations 2/19/PBI/2000, police, prosecutors, or judges may order the seizure of assets of individuals or entities that have been either declared suspects, or indicted for a crime. This does not require the permission of BI, but, in practice, for law enforcement agencies to identify such assets held in Indonesian banks, BI's permission would be required. In the case of money laundering as the suspected crime, however, bank secrecy laws would not apply, according to the anti-money laundering law.

The October 18, 2002, emergency antiterrorism regulations, the Government Regulations in Lieu of Law of the Republic of Indonesia No. 1 of 2002 on Eradication of Terrorism (Perpu), criminalize terrorism and provide the legal basis for the GOI to act against terrorists, including the tracking and freezing of assets. The Perpu provides a minimum of three years and a maximum of 15 years imprisonment for anyone who is convicted of intentionally providing or collecting funds which are known to be used partly or wholly for acts of terrorism. This regulation is necessary because Indonesia's anti-money laundering law criminalizes the laundering of proceeds of crimes, but it is unclear to what extent terrorism generates proceeds. Policy makers are currently drafting clarifying amendments.

The GOI has the authority to trace and freeze assets of individuals or entities designated by the UNSCR 1267 Sanctions Committee, and has circulated the UN 1267 Sanctions Committee's consolidated list to all banks operating in Indonesia, with instructions to freeze any such accounts. The interagency process to issue freeze orders, which includes the Foreign Ministry, Attorney General, and BI, takes several weeks from UN designation to bank notification. The GOI, to date, reports that it has not found any terrorist assets.

The GOI has not taken into account alternative remittance systems or charitable or nonprofit entities in its strategy to combat terrorist finance and money laundering. The PPATK, however, is working on draft regulations under the AML Law to cover the securities and insurance markets.

Indonesia is a member of the Asia/Pacific Group on Money Laundering and the Bank for International Settlements. This implies endorsement of the Basel Committee's "Core Principles for Effective Banking Supervision," that BI claims it follows voluntarily. The GOI is a party to the 1988 UN Drug Convention, and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. Indonesia has signed, but not yet become a party to, the UN International Convention for the Suppression of the Financing of Terrorism.

Indonesia does not have any bilateral agreements allowing for on-site examinations of foreign banks by home country supervisors, nor does it have specific agreements for international exchange of information on non-money laundering cases. However, BI asserts that, in principle, it would not object to on-site supervision by host country authorities and would deal with requests for exchange of information on money laundering cases on an ad hoc basis, in accordance with existing criminal law. The AML Law contains a specific provisions (Article 44 and 44 A) with provide for mutual legal assistance with respect to money laundering cases. The Government of the Republic of Indonesia should continue to implement its money laundering legislation. In particular, the GOI must effectively implement the laws and procedures it has put in place and should streamline its asset seizure and forfeiture procedures. Indonesia should review the adequacy of the Code for Criminal Procedure and the Rules of Evidence and enact legislation to allow the use of intelligence for investigations and the use of modern techniques to enter evidence in court proceedings. The Republic of Indonesia should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Iran

The U.S. Department of State has designated Iran as a State Sponsor of Terrorism. Iran is not a regional financial center. Iran has a robust underground economy and the use of alternative remittance systems to launder money is widespread. The underground economy is spurred—in part—by attempts to avoid restrictive taxation. In 2003, a prominent Iranian banking official was quoted as estimating that money laundering encompasses 20 percent of Iran's economy and that the under-development of financial institutions leads to an imbalance in financial markets causing underground financial activities to flourish. Further, Iran's real estate market is used to launder money. Real estate transactions take place in Iran, but often no funds change hands there; rather, payment is made overseas. This is typically done because of the difficulty in transferring funds out of Iran and the weakness of Iran's currency, the rial. The real estate market, in at least one instance, has been used to launder narcotics-related funds. Hawala is also used to transfer value to and from Iran. Factors contributing to the widespread use of hawala are currency exchange restrictions and the large number of Iranian expatriates. The smuggling of goods into Afghanistan from Iran is also involved with barter trade and trade-based money laundering. Goods purchased in Dubai are sent to the port of Bandar Abbas in Iran and then via land routes to other markets in Afghanistan and Pakistan. The goods imported into Iran and sent into Afghanistan are often part of the Afghan Transit Trade. Many of these goods are eventually found on the regional black markets. Iran is also a major transit route for opiates smuggled from Afghanistan.

In 2003 the Majlis (Parliament) passed an anti-money laundering act. The law includes customer identification requirements, mandatory record keeping for five years after the opening of accounts, and the reporting of suspicious activities.

Iran is a party to the 1988 UN Drug Convention and has signed, but not yet ratified, the UN Convention against Transnational Organized Crime. It does not have a law on terrorist financing. In 2003, the Government of Argentina moved forward on indictments against four Iranian officials

involved with the material support and funding of the 1994 terrorist bombing of the Argentine-Jewish Cultural Center in Buenos Aires.

Iran should construct a viable anti-money laundering/terrorist financing regime that adheres to international standards. Iran should also become a party to the UN International Convention for the Suppression of the Financing of Terrorism and should stop the support and funding of terrorism.

Ireland

The primary sources of funds laundered in Ireland are narcotics trafficking, fraud and tax offenses. Money laundering mostly occurs in financial institutions and bureaux de change. Additionally, investigations in Ireland indicate that some business professionals have specialized in the creation of legal entities, such as shell corporations, as a means of laundering money. Trusts are also established as a means of transferring funds from the country of origin to offshore locations. The use of shell corporations and trusts makes it more difficult to establish the true beneficiary of the funds, which makes it difficult to follow the money trail and establish a link between the funds and the criminal.

The use of solicitors, accountants, and company formation agencies in Ireland to create "shell companies" has been cited in a number of suspicious transaction reports (STRs), and in requests for assistance from Financial Action Task Force (FATF) members. Investigations have disclosed that these companies are used to provide a series of transactions connected to money laundering, fraudulent activity, and tax offenses. The difficulties in establishing the "beneficial owner" have been complicated by the fact that the directors are usually nominees and are often principals of a solicitors' firm or a company formation agency.

Money laundering relating to narcotics trafficking and other offenses was criminalized in 1994. Financial institutions (banks, building societies, the Post Office, stockbrokers, credit unions, bureaux de change, life insurance companies, and insurance brokers) are required to report suspicious transactions and currency transactions exceeding approximately $15,000. The financial institutions are also required to implement customer identification procedures, and retain records of financial transactions In July 2003, Ireland amended its Anti-Money Laundering law to extend the requirements of customer identification and suspicious transaction reporting to lawyers, accountants, auditors, real estate agents, auctioneers, and dealers in high-value goods, thus aligning its laws with the European Union's Second Money Laundering Directive of 2001. The Irish Financial Services Regulatory Authority (IFSRA) supervises the financial institutions for compliance with money laundering procedures. In addition to STRs, there are customs reporting requirements for anyone transporting more than 12,700 euros.

Ireland's international banking and financial services sector is concentrated in Dublin's International Financial Services Centre (IFSC). Approximately 400 international financial institutions and companies operate in the IFSC. Services offered include banking, fiscal management, re-insurance, fund administration, and foreign exchange dealing. The IFSRA regulates the IFSC companies which conduct banking, insurance, and fund transactions. Tax privileges for IFSC companies have been phased out over recent years and will totally expire in 2005.

In 1999, the Corporate Law was amended to address problems arising from the abuse of Irish-registered nonresident companies (companies which are incorporated in Ireland, but do not carry out any activity in the country). The legislation requires that every company applying for registration must demonstrate that it intends to carry on an activity in the country. Companies must maintain at all times an Irish resident director or post a bond as a surety for failure to comply with the appropriate company law. In addition, the number of directorships that any one person can hold, subject to certain exemptions, is limited to 25. This is aimed at curbing the use of nominee directors as a means of disguising beneficial ownership or control.

In August 2001, the Government of Ireland (GOI) enacted the Company Law Enforcement Act 2001 (Company Act), to deal with problems associated with shell companies. The legislation establishes the Office of the Director of Corporate Enforcement (ODCE), whose responsibility it is to investigate and enforce the Company Act. The ODCE also has a general supervisory role in respect of liquidators and receivers. Under the law, the beneficial directors of a company have to be named. The Company Act also creates a mandatory reporting obligation for auditors to report suspicions of breaches of company law to the ODCE. In 2003, the ODCE had 18 prosecutions resulting in fines of varying amounts.

The Bureau of Fraud Investigation (BFI) serves as Ireland's financial intelligence unit (FIU) and has moved from the Department of Crime and Security to the Department of National Support Services. The Bureau analyzes financial disclosures. On May 1, 2003, a new Irish legal requirement went into effect, mandating obligated reporting institutions to file STRs with the Revenue (Tax) Department in addition to the BFI. Ireland estimates that up to 95 percent of STRs may involve tax violations. The Value Added Tax (VAT) fraud scams are the most prolific and have increased significantly over the past two years.

The STRs filed by financial institutions have increased over the past four years from 1,421 reports filed in 1999 to 4,398 filed in 2002. Investigations of money laundering cases have increased from 1,520 in 1999 to 4,398 in 2002. Convictions for money laundering offenses under the Criminal Justice Act totaled seven in 1999, ten in 2000, four in 2001 and two in 2002. A conviction on charges of money laundering carries a maximum penalty of 14 years' imprisonment and an unlimited fine.

Under certain circumstances, the High Court can freeze, and where appropriate, seize the proceeds of crimes. The exchange of information between police and the Revenue Commissioners, where criminal activity is suspected, is authorized. The Criminal Assets Bureau (CAB) was established in 1996 to confiscate the proceeds of crime in cases where there is no criminal conviction. The CAB includes experts from Police, Tax, Customs and Social Security Agencies. In 2002, the CAB obtained High Court orders to confiscate assets totaling 44 million euros.

In 2002, the GOI introduced new legislation targeting fundraisers for both international and domestic terrorist organizations. The "Suppression of the Financing of Terrorism" bill, currently undergoing parliamentary committee review, will extend the existing powers of the Government to seize property and/or other financial assets belonging to groups suspected of involvement with the financing of terrorism. The bill will allow the Garda Siochana (the national police) to apply to the courts to freeze assets where certain evidentiary requirements are met. Ireland has reported to the European Commission the names of six individuals who maintained a total of nine accounts that were frozen in accordance with the provisions of the EU Anti-Terrorist Legislation. The aggregate value of the funds frozen was approximately 90,000 euros.

A money laundering investigation concerning a bureau de change operation uncovered evidence of the laundering of terrorist funds derived from international smuggling. Substantial cash payments into the bureau de change were not reflected in the principal books, records, and bank account. The bureau de change held a large cash reserve that was drawn upon when necessary by members of the terrorist organization. The bureau de change remitted payments from its legitimate bank account to entities in other jurisdictions, on behalf of the terrorist organization.

In January of 2001, Ireland and the United States signed a Mutual Legal Assistance in Criminal Matters Treaty (MLAT); however, it is not yet in force. An extradition treaty between Ireland and the United States is in force. Ireland is a member of the EU, the Council of Europe and the FATF. The FIU is a member of the Egmont Group. Ireland has signed, but not yet ratified, the UN International Convention for the Suppression of the Financing of Terrorism and the UN Convention against Transnational Organized Crime. Ireland is a party to the 1988 UN Drug Convention and the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime.

Expeditious enactment of the pending antiterrorist funding bill, implementation of Ireland's new anti-money laundering law amendments plus stringent enforcement of all such initiatives, will ensure that Ireland maintains an effective anti-money laundering program. Ireland should become a party to the UN International Convention for the Suppression of the Financing of Terrorism Ireland should ensure its offshore sector is adequately supervised. Ireland should require the beneficial owners and nominee directors of shell companies and trusts are properly identified.

Isle of Man

The Isle of Man (IOM) is a Crown Dependency of the United Kingdom located in the Irish Sea. Its large and sophisticated financial center is potentially vulnerable to money laundering at the layering and integration stages.

As of September 30, 2003, the IOM's financial industry consists of approximately 18 life insurance companies, 22 insurance managers, more than 170 captive insurance companies, more than 14.7 billion pounds (approximately $24.9 billion) in life insurance funds under management, 57 licensed banks and two licensed building societies, 85 investment business license holders, 28.9 billion pounds (approximately $49.1 billion) in bank deposits, and 192 collective investment schemes with 5.3 billion pounds (approximately $9 billion) of funds under management. There are also 159 licensed corporate service providers, with approximately another 25 seeking licenses.

Money laundering related to narcotics trafficking was criminalized in 1987. The Prevention of Terrorism Act 1990 made it an offense to contribute to terrorist organizations, or to assist a terrorist organization in the retention or control of terrorist funds. In 1998 money laundering arising from all serious crimes was criminalized. Financial institutions and professionals such as banks, fund managers, stockbrokers, and insurance companies, are required to report suspicious transactions. In addition, financial businesses such as lawyers, registered legal practitioners, accountants holding or handling clients' funds, corporate service providers, trust service providers, and money service businesses (MSBs), such as bureaux de change and money transmitters, are obligated to know their customer.

The Financial Supervision Commission (FSC) and the Insurance and Pension Authority (IPA) regulate the IOM financial sector. The FSC is responsible for the licensing, authorization, and supervision of banks, building societies, investment businesses, collective investment schemes, corporate service providers, and companies. The IPA regulates insurance companies, insurance management companies, general insurance intermediaries, and retirement benefit schemes and their administrators. Instances of failure to disclose suspicious activity would result in both a report being made to the Financial Crimes Unit (FCU), the IOM's financial intelligence unit (FIU), and possible punitive action by the regulator, which could include revoking the business license. To assist license holders in the effective implementation of anti-money laundering techniques, the regulators hold regular seminars and additional workshop training sessions in partnership with the FCU and the Isle of Man Customs and Excise.

In December 2000, the FSC issued a consultation paper, jointly with the Crown Dependencies of Guernsey and Jersey, called "Overriding Principles for a Revised Know Your Customer Framework," to develop a more coordinated approach on anti-money laundering. Further work between the Crown Dependencies is being undertaken to develop a coordinated strategy on money laundering, to ensure compliance as far as possible with the newly revised FATF Forty Recommendations issued in June 2003. The IOM is also assisting the FATF Working Groups considering matters relating to customer identification and companies' issues.

In August 2002, new regulations were introduced that require MSBs which are not already regulated by the FSC or IPA to register with Customs and Excise. This has the effect of implementing, in

relation to MSBs, the 1991 EU Directive on Money Laundering, revised by the Second Directive 2001/97/EC, and provides for their supervision by Customs and Excise to ensure compliance with the AML Codes.

The IPA, as regulator of the IOM's insurance and pensions business, issues Anti-Money Laundering Standards for Insurance Businesses (the "Standards"). The Standards are binding upon the industry and include the Overriding Principles. These include a requirement that all insurance businesses check their whole book of businesses to determine that they have sufficient information available to prove customer identity. The current set of Standards became effective March 31, 2003.

Additionally, the IOM has introduced the Online Gambling Regulation Act 2001 and an accompanying AML (Anti-Money Laundering) (Online Gambling) Code 2002. The Act, Regulations, and dedicated anti-money laundering Code are supplemented by anti-money laundering guidance notes issued by the Gambling Control Commission, a regulatory body which provides more detailed guidance on the prevention of money laundering through the use of online gambling. The Online Gambling legislation brought regulation to what was technically an unregulated gaming environment. The dedicated Online Gambling Anti-Money Laundering Code was at the time unique within this variant of the gambling industry. The revised FATF Forty Recommendations now require all jurisdictions to have similar anti-money laundering provisions for this industry in the future.

The Companies, Etc. (Amendment) Act 2003 received Royal Assent on December 9, 2003. A provision that took effect in December 2003 calls for additional supervision for all licensable businesses, e.g., banking, investment, insurance and corporate service providers. The act further provides that no future bearer shares will be issued after April 1, 2004, and all existing bearer shares must be registered before any rights relating to such shares can be exercised.

FCU, formed on April 1, 2000, evolved from the police Fraud Squad and now includes both police and customs staff. It is the central point for the collection, analysis, investigation, and dissemination of suspicious transaction reports (STRs) from obligated entities. The entities required to report suspicious transactions include banks/financial institutions, bureaux de change, casinos, post offices, lawyers, accountants, advocates, and businesses involved with investments, insurance real estate, gaming/lotteries, and money changers. The FIU received 1,613 STRs in 2001, 1,727 in 2002 and 1,850 in 2003.

The Criminal Justice Acts of 1990 and 1991, as amended, extend the power to freeze and confiscate assets to a wider range of crimes, increase the penalties for a breach of money laundering codes, and repeal the requirement for the Attorney General's consent prior to disclosure of certain information. Assistance by way of restraint and confiscation of assets of a defendant is available under the 1990 Act to all countries and territories designated by Order under the Act, and the availability of such assistance is not convention-based nor does it require reciprocity. Assistance is also available under the 1991 Act to all countries and territories in the form of the provision of evidence for the purposes of criminal investigations and proceedings, and under the 1990 Act the provision of documents and information is available to all countries and territories for the purposes of investigations into serious or complex fraud. Similar assistance is also available to all countries and territories in relation to drug trafficking and terrorist investigations.

The law also addresses the disclosure of a suspicion of money laundering. Since June 2001, it has been an offense to fail to make a disclosure of suspicion of money laundering for all predicate crimes, whereas previously this just applied to drug and terrorism-related crimes. The law also lowers the standard for seizing cash from "reasonable grounds" to believe that it was related to drug or terrorism crimes to a "suspicion" of any criminal conduct. The Acts also provide powers to constables, which include customs officers, to investigate whether a person has benefited from any criminal conduct. These powers allow information to be obtained about that person's financial affairs. These powers can be used to assist in criminal investigations abroad as well as in the IOM.

The IOM also introduced the Customs and Excise (Amendment) Act 2001, which gives various law enforcement and statutory bodies within the IOM the ability to exchange information, where such information would assist them in discharging their functions. The Act also permits Customs and Excise to release information it holds to any agency within or outside the IOM for the purposes of any criminal investigation and proceeding. Such exchanges can be either spontaneous or by request.

The Government of the IOM has enacted the Anti-Terrorism and Crime Act, 2003. The purpose of the Act is to enhance reporting, by making it an offense not to report suspicious transactions relating to money intended to finance terrorism. The Act is expected to come into force during 2004.

The IOM Terrorism (United Nations Measure) Order 2001 implements UNSCR 1373 by providing for the freezing of terrorist funds, as well as creating a criminal offense with respect to facilitators of terrorism or its financing. All other UN and EU financial sanctions have been adopted or applied in the IOM, and are administered by Customs and Excise. Institutions are obliged to freeze affected funds and report the facts to Customs and Excise.

The FSC's anti-money laundering guidance notes have been revised to include information relevant to terrorist events. The Guidance Notes were issued in December 2001.

The IOM is a member of the Offshore Group of Banking Supervisors. The IOM is also a member of the International Association of Insurance Supervisors and the Offshore Group of Insurance Supervisors. The FCU belongs to the Egmont Group. The IOM cooperates with international anti-money laundering authorities on regulatory and criminal matters. Application of the 1988 UN Drug Convention was extended to the IOM in 1993.

The IOM has a developed a legal and constitutional framework for combating money laundering and the financing of terrorism. There appears to be a high level of awareness of anti-money laundering and counterterrorist financing issues among the industry, and considerable effort has been made to put appropriate practices into place. In November 2003 the IOM's Government published the full report made by the International Monetary Fund (IMF) following its recent examination of the regulation and supervision of the IOM's financial sector. In this report the IMF commended the IOM for its robust regulatory regime. The IMF found that "the financial regulatory and supervisory system of the Isle of Man complies well with the assessed international standards." The report concludes that the Isle of Man fully meets international standards in areas such as banking, insurance, securities, anti-money laundering, and combating the financing of terrorism.

Isle of Man officials should continue to closely monitor its anti-money laundering program to assure its effectiveness, and IOM authorities should continue to work with international anti-money laundering authorities to deter financial crime and the financing of terrorism and terrorists.

Israel

The Government of Israel (GOI) has made substantial progress enacting anti-money laundering legislation to support its efforts to strengthen its anti-money laundering regime. That progress prompted the Financial Action Task Force (FATF) to remove Israel from its list of noncooperative countries and territories (NCCT) in the fight against money laundering in June 2002 and from its monitoring list in the fall of 2003.

Israel enacted the "Prohibition on Money Laundering Law" (PMLL), on August 8, 2000. The PMLL established a legal framework for an anti-money laundering system, but required the passage of several implementing regulations before the law could fully take effect. Among other things, the PMLL criminalized money laundering and noted more than 18 serious crimes as predicate offenses for money laundering, in addition to offenses described in the prevention of terrorism ordinance. The PMLL also authorized the issuance of regulations requiring financial service providers to identify,

report, and keep records for specified transactions for seven years. The law also provided for the development of the IMPA to gather financial intelligence to combat money laundering and terrorist financing. In November 2000, Israel enacted an implementing regulation called for by the PMLL. The "Prohibition on Money Laundering (Reporting to Police)" regulation established mechanisms for reporting to the police transactions involving property that was used to commit a crime or that represents the proceeds of crime.

Israel continued its efforts to reform its anti-money laundering system, and enacted additional implementing regulations provided for by the PMLL. The "Prohibition on Money Laundering (The Banking Corporations Requirement Regarding Identification, Reporting, and Record Keeping) Order" was approved in 2001. The Order establishes specific procedures for banks with respect to customer identification for account holders and beneficial owners, record keeping, and reporting of irregular and suspicious transactions reporting. The "Prohibition of Money Laundering (Methods of Reporting Funds when Entering or Leaving Israel) Order," also approved in 2001, requires individuals who enter or leave Israel with cash, bank checks, or traveler's checks above the equivalent of $12,500 to report that information to customs authorities. Failure to comply is punishable by imprisonment of up to six months and a fine of approximately $37,000 or ten times the amount not declared, whichever is greater. Additional regulations passed in 2001 addressed financial sanctions for covered institutions that fail to comply with their obligations under the PMLL, including requirements for customer identification, record keeping, and reporting of irregular transactions upon their respective financial sectors.

The PMLL also authorized the issuance of regulations requiring financial service providers to identify, report, and keep records, for specified transactions for seven years. The law also provided for the development of a Financial Intelligence Unit.

In 2002 Israel enacted several new amendments to the PMLL that resulted in: the addition of currency service providers to the list of entities required to file CTRs and STRs; the establishment of a mechanism for customs officials to input into the IMPA database, the creation of regulations stipulating the time and method of bank reporting, and the creation of rules on safeguarding the IMPA database and rules for requesting and transmitting information between IMPA and Israeli national police and the Israel security agency.

In February 2002, Israel's FIU, the Israeli Money laundering Prohibition Authority (IMPA), began operations. In 2003, the IMPA has received over 120,000 currency transaction reports (CTRs) and 1,300 suspicious transaction reports (STRs). Banks, portfolio managers, stock exchange members, currency service providers, customs, the postal bank, insurance providers, and provident fund mangers must file CTRs and STRs with the IMPA. IMPA develops intelligence cases that it passes on to the Israeli National Police, Customs, and the Israeli Security Agency for Criminal Investigation and Enforcement.

The FATF removed Israel from the NCCT list in June 2002. Israel was removed from the FATF monitoring list in the fall of 2003. Israel's efforts to meet FATF's recommendations include establishing currency-reporting guidelines, creating an FIU, criminalizing money laundering associated with serious crimes, and improving Israel's ability to locate and freeze assets associated with terrorism. In June 2002, IMPA was admitted into the Egmont Group of Financial Intelligence Units. A U.S. advisory issued by the Department of Treasury's Financial Crimes Enforcement Network in June 2000 to U.S. financial institutions, emphasizing the need for enhanced scrutiny of certain transactions and banking relationships in Israel to ensure that appropriate measures are taken to minimize risk for money laundering, was withdrawn in 2002, acknowledging Israel's enactment and implementation of reforms in its anti-money laundering system.

Under the legal assistance law, Israeli courts are empowered to enforce forfeiture orders executed in foreign courts for crimes committed outside Israel. This ability has recently been enhanced by the new

anti-money laundering law. Informally, the GOI has cooperated with requests from U.S. law enforcement in matters of financial crime, including those involving narcotics and terrorism. In 2002, Israeli and U.S. law enforcement cooperated as part of an "Operation Joint Venture," a long-term money laundering investigation focusing on an international Israeli network that launders cash proceeds from Colombian drug-trafficking organizations. The Israeli National Police have provided U.S. law enforcement with information on the network that has led to the arrest of six individuals, including two Colombian traffickers. The United States and Israel also have a Mutual Legal Assistance Treaty that entered into force in May of 1999.

In August 2003, the GOI passed a comprehensive amendment to the PMLL that in addition to other things: lowered the threshold for reporting CTRs from new Israeli shekels (nis) 200,000 ($42,000) to nis 50,000 ($10,500), lowered the document retention threshold from nis 50,000 to nis 10,000 ($2,100), and imposed more stringent reporting requirements. As a result of the lowering of the reporting thresholds, the IMPA expects the number of CTRS and STRS to increase in 2004.

In 2003, the GOI reports that there have been 48 money laundering and/or terrorist financing cases that have reached various stages of investigation and/or adjudication. Ten of these cases have yielded indictments. In 2003, the GOI seized approximately $13 million in illicit assets. In addition, the GOI transferred $6.8 million to Swiss authorities as part of an Israeli-Swiss collaboration in the investigation of an Israeli businessman suspected of money laundering.

In 2004, Israel expects to pass an amendment to the PMLL that will modernize Israel's antiterrorist financing laws by adapting them to existing tools and arrangements for countering terrorist financing.

Israel is a party to the 1988 UN Drug Convention, and has signed, but has not yet become a party to, the UN International Convention for the Suppression of the Financing of Terrorism. Israel has also signed, but has not yet ratified, the UN Convention against Transnational Organized Crime, which recently entered into force internationally.

The Government of Israel continues to make progress in strengthening its anti-money laundering and terrorist financing regime in 2003. Israel has enacted several new laws pertaining to money laundering and continues to improve the role of its FIU. Israel should examine the misuse of the international diamond trade to launder funds. Israel should continue to enact all regulations pursuant to the PMLL and continue improving its anti-money laundering and antiterrorist financing regime. Israel should become a party to the UN International Convention for the Suppression of the Financing of Terrorism.

Italy

Italy is not an important regional financial center or an offshore financial center. However, money laundering is a concern both because of the prevalence of home-grown organized crime groups and the recent influx of criminal bands from abroad, especially from Albania and Russia. Counternarcotics efforts are complicated by heavy involvement in international narcotics trafficking of domestic and Italy-based foreign organized crime groups. Italy is a consumer country and a major transit point for heroin coming from the Near East and Southwest Asia through the Balkans en route to Western/Central Europe and, to a lesser extent, the United States. Italian and ethnic Albanian criminal organizations work together to funnel drugs to and through Italy. In addition to the narcotics trade, money to be laundered comes from myriad criminal activities, such as alien smuggling, contraband cigarette smuggling, pirated goods, extortion, usury, and kidnapping. Financial crimes not directly linked to money laundering such as credit card and Internet fraud are increasing. Money laundering occurs both in the regular banking sector and, more frequently, in the nonbank financial system, i.e., casinos, real estate, and the gold market. Money launderers predominantly use nonbank financial institutions for the illicit export of currency--primarily U.S. dollars and euros--to be washed in offshore companies. Significant amounts of international narcotics-trafficking proceeds generated in

the United States are used for legitimate commercial transactions in Italy, which leads to a cycling of drug-tainted U.S. currency through the Italian financial system. There is a substantial black market for smuggled goods in the country, but it is not funded significantly by narcotic proceeds.

Money laundering is defined as a criminal offense when it relates to a separate felony offense punishable by imprisonment for a minimum of three years, such as narcotics trafficking. Italy has strict laws on the control of currency deposits in banks. Banks must identify their customers and record and report to the Italian exchange office (UIC)--Italy's financial intelligence unit (FIU)--any cash transaction that exceeds approximately $15,000. A banking industry code of ethics requires reporting all suspicious cash transactions and other activity--such as a third party payment on an international transaction--on a case-by-case basis. These reports are submitted regularly. Italian law prohibits the use of cash or nonregistered securities for transferring money in amounts in excess of approximately $15,000, except through authorized intermediaries/brokers.

Banks and other financial institutions are required to maintain for an adequate period of time records necessary to reconstruct significant transactions, including information about the point of origin of funds transfers and related messages sent to or from Italy. Banks operating in Italy must remit account data to a central archive controlled by the Bank of Italy. This information is accessible to Italian law enforcement agencies. A "banker negligence" law makes individual bankers responsible if their institutions launder money. Bankers and others are protected by law with respect to their cooperation with law enforcement entities.

Italy has addressed the problem of international transportation of illegal-source currency and monetary instruments by applying the $15,000 -equivalent reporting requirement to cross-border transport of domestic and foreign currencies and bearer bonds. Reporting is mandatory for cross-border transactions involving bearer monetary instruments (e.g., checks), but not for wire transfers; nevertheless, due diligence is required for such transfers. Italian officials are reviewing bank deposit trends. The Anti-Mafia Directorate is conducting a retrospective analysis of irregular and suspect money flows from groups--especially those suspected of links to terrorism--and 19 countries of concern. In particular, the directorate is looking at the transfer of funds, incoming and outgoing, and their origins and destinations.

Because of these banking controls, narcotics-traffickers are using different ways of laundering drug proceeds. To deter nontraditional money laundering, the Government of Italy (GOI) has enacted a decree to broaden the category of institutions and professionals required to abide by anti-money laundering regulations. The list now includes debt collectors, exchange houses, insurance companies, casinos, real estate agents, brokerage firms, gold and valuables dealers and importers, and antiques dealers. Although Italy now has comprehensive internal auditing and training requirements for its (broadly-defined) financial sector, implementation of these measures by nonbank financial institutions lags behind that of banks, as evidenced by the relatively low number of suspicious transaction reports (STRs) filed by nonbank financial institutions.

The UIC, which is an arm of the Bank of Italy, receives and analyzes STRs filed by covered institutions then forwards them to either the Anti-Mafia Directorate (including local public prosecutors) or the financial police for further investigation. The UIC compiles a register of financial and nonfinancial intermediaries that carry on activities that could be exposed to money laundering. The UIC also performs supervisory and regulatory functions such as issuing decrees, regulations, and circulars.

From January to October 2003, according to official statistics from the Guardia di Finanza (financial police), 370 individuals have been investigated for crimes involving money laundering, with the value of the money laundered amounting to $12 million.

Italy has established reliable systems for identifying, tracing, freezing, seizing, and forfeiting assets from narcotics trafficking and other serious crimes, including terrorism. These assets include currency accounts, real estate, vehicles, vessels, drugs, legitimate businesses used to launder drug money, and other instruments of crime. Law enforcement officials have adequate powers and resources to trace and seize assets; however, their efforts can be affected by which local magistrate is working a particular case.

Under anti-mafia legislation, seized financial and nonfinancial assets of organized crime groups can be forfeited. The law allows for forfeiture in both civil and criminal cases. To date, nonfinancial assets belonging to terrorists can only be frozen, seized and forfeited with a court order. However, the GOI is working on a legislative measure that would extend existing anti-mafia legislation on asset seizure to allow the freezing, seizing and forfeiture of nonfinancial assets belonging to terrorist groups and individuals. The GOI cooperates fully with efforts by the United States to trace and seize assets. Italy is involved in multilateral negotiations with the European Union (EU) to enhance asset tracing and seizure.

Italy does not have any significant legal loopholes that allow traffickers and other criminals to shield assets. However, the burden of proof is on the Italian government to make a case in court that assets are related to narcotics trafficking or other serious crimes. Official statistics for asset seizures and forfeitures from January to October 2003 indicate that the Financial Police seized $225 million in financial and nonfinancial assets from criminals and organized crime gangs. Funds from asset forfeitures are entered into the general State accounts.

In October 2001, Italy passed a decree (subsequently converted into legislation) that created the Inter-ministerial Financial Security Committee, which is charged with coordinating GOI efforts to track and interdict terrorist financing. The committee includes representatives from the Economics, Justice and Foreign Affairs Ministries, law enforcement agencies, and the intelligence services. The Committee has far-reaching powers that include waiving provisions of the Official Secrecy Act to obtain information from all government ministries and the authority to order a freeze of terrorist-related assets.

A second October 2001 decree (also converted into legislation) made financing of terrorist activity a criminal offense, with prison terms of between seven and 15 years. The legislation also requires financial institutions to report suspicious activity related to terrorist financing. Both measures facilitate the freezing of terrorist assets. Italy arrested dozens of individuals in 2003 on terrorist-related charges (e.g., use of false documents, criminal association), although none arrested were specifically charged with terrorist financing. Nevertheless, in 2003, dozens of accounts belonging to groups/individuals suspected of terrorist activity were frozen, based partly upon designations made by the UN and the EU.

The UIC is responsible for transmitting to financial institutions the EU, UN and USG lists of terrorist groups and individuals. The UIC may provisionally freeze funds deemed suspect for 48 hours, by issuing an order subject to confirmation by the courts, which may then order that the assets be seized. Under Italian law, financial and economic assets linked to terrorists can be seized through a criminal sequestration order. Courts may issue such orders as part of criminal investigation of crimes linked to international terrorism. The sequestration order may be issued with respect to any asset, resource, or item of property, provided that these are goods or resources linked to the criminal activities under investigation.

Alternative remittance systems are rare in Italy. Italy does not regulate charities per se. Primarily for tax purposes, Italy in 1997 created a category of “not-for-profit organizations of social utility” (ONLUS). Such an organization can be an association, a foundation or a fundraising committee. To be classified as an ONLUS, the organization must register with the Economics Ministry and prepare an annual report. The ONLUS register has been used mainly for tax purposes, but Italian authorities are

exploring how to use it for other purposes, including the investigation of possible terrorist activity and links.

Italian cooperation with the United States on money laundering has been exemplary. The U.S. and Italy have signed a customs assistance agreement as well as extradition and Mutual Legal Assistance treaties (MLAT). Both in response to requests under the MLAT and on an informal basis, Italy provides the United States records related to narcotics trafficking, terrorism, and terrorist financing investigations and proceedings. Italy also cooperates closely with U.S. law enforcement agencies and other governments investigating illicit financing related to these and other serious crimes. Italy shares assets with member states of the Council of Europe. An effort to provide a mechanism under the MLAT for asset forfeiture and the sharing of forfeited assets has not yet come to fruition. Recently, assets can only be shared bilaterally if agreement is reached on a case-specific basis.

Italy is a member of the Financial Action Task Force (FATF). It held the FATF presidency from 1997-98. Italy is a party to the 1988 UN Drug Convention, the UN International Convention for the Suppression of the Financing of Terrorism and the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. Italy has signed, but not yet ratified, the UN Convention against Transnational Organized Crime.

As a member of the Egmont Group, the UIC shares information with other countries' FIUs. The UIC has been authorized to conclude information-sharing agreements concerning suspicious financial transactions with other countries. To date, Italy has signed memoranda of understanding with France, Spain, the Czech Republic, Croatia, Slovenia, and Australia. Italy also is negotiating agreements with Japan and Switzerland and has a number of bilateral agreements with foreign governments in the areas of investigative cooperation on narcotics trafficking and organized crime. We are not aware of any instances of refusals to cooperate with foreign governments.

The GOI is firmly committed to the fight against money laundering and terrorist financing both domestically and internationally. Although the GOI has comprehensive internal auditing and training requirements for its financial sector, implementation of these measures by nonbank financial institutions still lags behind that of banks, as evidenced by the relatively low number of STRs that have been filed by such entities. The GOI should increase its training efforts and supervision in the area of nonbank financial institutions to decrease their vulnerability to abuse by criminal or terrorist groups. The GOI should also continue its active participation in multilateral fora dedicated to the global fight against money laundering and terrorist financing.

Jamaica

Jamaica, the foremost producer and exporter of marijuana in the Caribbean, is also a major transit country for cocaine flowing from South America to the United States and other international destinations. The profits from these massive illegal drug flows must be legitimated, and Jamaica is therefore a prime candidate for money laundering activities.

Jamaica is not an offshore financial center. Additionally, Jamaica's banking system has been under intense scrutiny from regulators in the wake of several major banking scandals in the mid-to-late 1990s. As a result, much of the proceeds from narcotics trafficking and other criminal activity is used to acquire tangible assets such as real estate or luxury cars, while still more merely passes through Jamaica as cash shipments to South American countries. Further complicating the picture are the hundreds of millions of U.S. dollars in legitimate remittances sent home to Jamaica by the substantial Jamaican population overseas.

The Money Laundering Act (MLA), approved by Parliament in December 1996 and implemented on January 5, 1998, governs Jamaica's anti-money laundering regime. The MLA criminalizes narcotics-related money laundering and introduces record keeping and reporting requirements for financial

institutions on all currency transactions over $10,000. Exchange bureaus and cambios have a reporting threshold of $8,000. The MLA was amended in March 1999 to raise the threshold to $50,000 for financial institutions, after complaints from financial sector institutions that had difficulties with the amount of paperwork resulting from the $10,000 threshold. At that time, a requirement was also added for banks to report suspicious transactions of any amount to the Director of Public Prosecutions. In February 2000, the MLA was amended to add fraud, firearms trafficking, and corruption as predicate offenses for money laundering. The most recent legislative update, in February 2002, imposes a requirement for money transfer and remittance agencies to report transactions over $50,000.

In August 2003, the Government of Jamaica (GOJ) introduced a new Customs arrival form that incorporates a requirement to declare currency or monetary instruments over $10,000 or equivalent. This measure should assist law enforcement efforts to combat the movement of large amounts of cash through Jamaica, often in shipments totaling hundreds of thousands of U.S. dollars.

In 2003, the Jamaican unit established to assist in the implementation of the anti-money laundering program moved from the Office of the Director of Public Prosecutions to the Ministry of Finance. The new Financial Investigations Division of the Ministry of Finance includes four police officers who have full arrest powers. No money laundering-related arrests or prosecutions were reported in 2003.

Further action is required in the area of asset forfeiture to permit the GOJ to take full advantage of the mechanism to seize and forfeit the proceeds of criminal activities. Law enforcement authorities are hampered by the fact that Jamaica has no civil forfeiture law, and under the 1994 Drug Offenses (Forfeiture of Proceeds) Act, a criminal narcotics-trafficking conviction is required as a prerequisite to forfeiture. This often means that even when police discover illicit funds, the money cannot be seized or frozen and must be returned to the criminals.

In 2003, the GOJ tabled the Terrorism Prevention Act in Parliament. If passed as written, the Act would amend the MLA to include acts of terrorism as predicate offenses. At this time, the GOJ does not have the legal authority under the MLA to identify, freeze and seize terrorist finance-related assets. A court may order, however, that suspected terrorist assets be frozen. The Terrorism Prevention Act would remove the need for a court order and allow the GOJ to freeze and seize terrorist assets. As an interim measure, the Bank of Jamaica currently requires all banks and financial institutions (including remittance companies) to abide by the "Guidance Notes for Financial Institutions in Detecting Terrorist Financing" issued by the Financial Action Task Force (FATF) in April 2002. Additionally, the Ministry of Foreign Affairs and Foreign Trade distributes to all relevant agencies the list of individuals and entities included on the UN 1267 Sanction Committee consolidated list. To date, no accounts owned by those included on the consolidated list have been discovered in Jamaica.

Jamaica and the United States have a Mutual Legal Assistance Treaty that entered into force in 1995. Jamaica is a party to the 1988 UN Drug Convention, the Inter-American Convention Against Corruption, and the UN Convention against Transnational Organized Crime as well as a signatory to the UN International Convention for the Suppression of the Financing of Terrorism. Jamaica is also a member of the Caribbean Financial Action Task Force and the Organization of American States Inter-American Drug Abuse Control Commission Experts Group to Control Money Laundering.

The GOJ has made progress in fighting money laundering, but further work is necessary to bring its regime into line with international standards. The scope of predicate offenses for money laundering should be extended to encompass all serious crimes. The legislation that has been proposed, but not yet enacted, to expand asset forfeiture provisions should be approved. Serious thought should also be given to returning the reporting threshold to $10,000, as originally mandated. The GOJ should provide the Financial Crimes Division with sufficient resources to enable it to combat money laundering effectively.

Japan

Japan is an important world financial center, and as such is at major risk for money laundering. The principal sources of laundered funds are narcotics trafficking and financial crimes (illicit gambling, extortion, abuse of legitimate corporate activities, and all types of property-related crimes) as well as the proceeds from violent crimes, mostly linked to Japan's criminal organizations, e.g., the Boryokudan. The National Policy Agency of Japan estimates the aggregate annual income from the Boryokudan's illegal activities is approximately $10 billion, $3.38 billion of which is derived from income from the trafficking of methamphetamine. U.S. law enforcement reports that drug-related money laundering investigations initiated in the United States periodically show a link between drug-related money laundering activities in the United States and bank accounts in Japan. The number of Internet-related money laundering cases is increasing. In some cases, criminal proceeds were concealed in bank accounts obtained through the Internet market.

Prior to 1999, Japanese law only criminalized narcotics-related money laundering. The Anti-Drug Special Law, which took effect in July 1992, criminalizes drug-related money laundering, mandates suspicious transaction reports for the illicit proceeds of drug offenses, and authorizes controlled drug deliveries. This legislation also creates a system to confiscate illegal profits gained through drug crimes. The seizure provisions apply to tangible and intangible assets, direct illegal profit, substitute assets, and criminally derived property that have been commingled with legitimate assets. The limited scope of the law and the burden required of law enforcement to prove a direct link between money and assets to specific drug activity severely limits the law's effectiveness. As a result, Japanese police and prosecutors have undertaken few investigations and prosecutions of suspected money laundering. Many Japanese officials in the law enforcement community, including Japanese Customs, believe that the Boryokudan have been exploiting Japan's financial institutions.

Pursuant to the 1999 Anti-Organized Crime Law, which came into effect in February 2000, Japan expanded its money laundering law beyond narcotics trafficking to include money laundering predicates such as murder, aggravated assault, extortion, theft, fraud, and kidnapping. The new law also extends the confiscation laws to include the additional money laundering predicate offenses and value-based forfeitures. It also authorizes electronic surveillance of organized crime members and enhances the suspicious transaction reporting system.

To facilitate exchange of information related to suspected money laundering activity, the Anti-Organized Crime Law established the Japan Financial Intelligence Office (JAFIO) on February 1, 2000, as Japan's financial intelligence unit. Financial institutions in Japan report suspicious transactions to the JAFIO, which analyzes them and disseminates them as appropriate. JAFIO also issued "Examples of Typical Suspicious Transactions" as a guideline for financial institutions. The guideline was revised in March 2002 to add more specific suspicious transaction cases, such as transactions carried out by Boryokudan and their associates. Additionally, JAFIO held meetings with financial institutions in various regions in October and November 2003 to introduce current money laundering methods and trends, with the intent of improving the quality of suspicious transaction reports. JAFIO continued in 2003 to try to improve its collection and analysis of relevant data from banks by encouraging feedback from law enforcement authorities. In addition, in January 2003, the Law on Customer Identification and Retention of Records on Transactions by Financial Institutions took effect, which reinforced and codified the customer identification and record keeping procedures which banks had practiced on their own for years.

The Financial Services Agency (FSA) supervises public-sector financial institutions and securities transactions. The FSA classifies and analyzes information on suspicious transactions reported by financial institutions, and provides law enforcement authorities with information relevant to their investigation. Japanese banks and financial institutions are required by law to record and report the identity of customers engaged in large currency transactions. There are no secrecy laws that prevent

disclosure of client and ownership information to bank supervisors and law enforcement authorities. Under the 1998 Foreign Exchange and Foreign Trade Control Law, banks and other financial institutions had to report transfers abroad of thirty million yen (approximately $275,229) or more. In April 2002, Parliament enacted the Law on Customer Identification and Retention of Records on Transactions with Customers by Financial Institutions, and revised the Foreign Exchange and Foreign Trade Law, so that financial institutions, as of January 2003, are required to make positive customer identification for both domestic transactions and transfers abroad in amounts of more than two million yen (approximately $18,439.) Banks and financial institutions are also required to maintain records for seven years.

Japanese financial institutions have cooperated, when requested, with law enforcement agencies, including U.S. and other foreign government agencies investigating financial crimes related to narcotics. In 2003, the U.S. and Japan concluded a Mutual Legal Assistance Treaty (MLAT). Japan has not adopted "due diligence" or "banker negligence" laws that make individual bankers responsible if their institutions launder money, but there are administrative guidelines in existence that require due diligence. The law does, however, protect bankers and other financial institution employees who cooperate with law enforcement entities.

The 1998 Foreign Exchange and Foreign Trade Control Law requires travelers entering and departing Japan to report physically transported currency and monetary instruments (including securities, and gold weighing over one kilogram) exceeding one million yen (approximately $9,174), or its equivalent in foreign currency, to customs authorities. Failure to submit a report, or submitting a false or fraudulent one, can result in a fine of up to 200,000 yen (approximately $1,835) or six months' imprisonment. However, the reporting requirement is enforced only sporadically.

In response to the events of September 11, 2001, the FSA used the anti-money laundering framework provided in the Anti-Organized Crime Law to require financial institutions to report transactions where funds appeared to both stem from criminal proceeds, and to be linked to individuals and/or entities suspected to have relations with terrorist activities. The 2002 Act on Punishment of Financing of Offenses of Public Intimidation added terrorist financing to the list of predicate offenses for money laundering and provided for the freezing of terrorism-related assets. It was enacted in July 2002. Japan signed the UN International Convention on the Suppression of the Financing of Terrorism on October 30, 2001, and accepted it on June 11, 2002. After September 11, 2001, Japan froze accounts related to the Taliban. Since then, Japan has regularly frozen assets and accounts linked to terrorists listed by the UN and others.

Underground banking systems operate widely, especially in immigrant communities. Such systems violate the Banking Law and the Foreign Exchange Law. The police have investigated 35 underground banking cases in which foreign groups transferred illicit proceeds to foreign countries. The aggregate value of such transfers has amounted to 420 billion yen (approximately $3.5 billion) since the beginning of 1992. About 120 billion yen ($1 billion) have been illegally transferred to China and Korea, and about 90 billion yen ($750 million) to Peru.

Japan has not enacted laws that allow for sharing of seized narcotics assets with other countries. However, the Japanese Government cooperates with efforts by the United States and other countries to trace and seize assets, and makes use of tips on the flow of drug-derived assets from foreign law enforcement efforts to trace funds and seize bank accounts.

Japan is a party to the 1988 UN Drug Convention. In December 2000, Japan signed the UN Convention against Transnational Organized Crime (UNTOC), which came into force internationally in September 2003. The bills for ratification of the UNTOC are scheduled to be submitted to the Diet in 2004. Japan is a member of the Financial Action Task Force. The JAFIO joined the Egmont Group of FIUs in 2000. Japan is also a member of the Asia/Pacific Group on Money Laundering. In 2002, Japan's FSA and the U.S. Securities and Exchange Commission and Commodity Futures Trading

Commission signed a nonbinding Statement of Intent (SOI) concerning cooperation and the exchange of information related to securities law violations. The SOI assists in the investigation and prosecution of securities and futures fraud, predicate offenses to money laundering. Japan has actively supported anti-money laundering efforts in developing countries in Asia. For example, in 2003 Japan provided assistance to the Philippines and to Indonesia for the development of their anti-money laundering framework, and is expected to continue to do so through 2004.

Japan has many legal tools and agencies in place to successfully detect, investigate, and combat money laundering. In order to strengthen its anti-money laundering regime, the Government of Japan should stringently enforce the Anti-Organized Crime Law. Japan should enact penalties for noncompliance with the Foreign Exchange and Foreign Trade Law, adopt measures to share seized assets with foreign governments, and enact banker "due diligence" provisions.

Jersey

The Bailiwick of Jersey (BOJ), one of the Channel Islands, is a Crown Dependency of the United Kingdom. The Islands are known as Crown Dependencies because the United Kingdom is responsible for their defense and international relations. Jersey's sophisticated array of offshore services is similar to that of international financial services centers worldwide.

The financial services industry consists largely of banks with deposits of $282 billion; mutual funds valued at $177 billion; insurance companies (which are largely captive insurance companies); investment advice, dealing, and management companies ($44 billion under management); and trust and company administration companies. In addition, the companies offer corporate services, such as special purpose vehicles for debt restructuring and employee share ownership schemes. For high net worth individuals, there are many wealth management services.

The International Monetary Fund (IMF) conducted a study of the anti-money laundering regime of Jersey in October 2003. The IMF found Jersey's Financial Services Commission (JFSC), the financial services regulator, to be in compliance with international standards, but it provided recommendations for improvement in three areas.

The Jersey Finance and Economics Committee is the government body responsible for administering the law regulating, supervising, promoting, and developing the Island's finance industry. The IMF recommended that the power the Finance and Economics Committee has to give direction to the JFSC could appear as a conflict of interest between the two agencies, and suggested that a separate body should be established to speak for the industry's consumers. The IMF's second proposal was that rules for banks' dealing with market risk should be established, along with a code of conduct for collective investment funds. The IMF's recommendation for the third area was that a contingency plan be established for the failure of a major institution.

Jersey is currently addressing the issues and has already published the rules for collective investment funds. The JFSC intends to continue strengthening the existing regulatory powers with amendments to the Financial Services Commission Law 1998, to provide legislative support for its inspections and the introduction of monetary fines for administrative and regulatory breaches. The amendments will also include stricter codification of industry guidelines and tighter enforcement of anti-money laundering and terrorist financing controls. The next IMF inspection is planned for 2005.

Jersey's main anti-money laundering laws are: the Drug Trafficking Offenses (Jersey) Law of 1988, which criminalizes money laundering related to narcotics trafficking; the Prevention of Terrorism (Jersey) Law, 1996, which criminalizes money laundering related to terrorist activity; and the Proceeds of Crime (Jersey) Law, 1999, which extended the predicate offenses for money laundering to all offenses punishable by at least one year in prison. The Terrorism (Jersey) Law 2002 is a response to the events of September 11, 2001, and enhances the powers of the insular authorities to investigate

terrorist offenses, to cooperate with law enforcement agencies in other jurisdictions, and to seize assets. The law was adopted by the Island Parliament and is now in force. Application of the 1988 UN Drug Convention was extended to Jersey on July 7, 1997.

The JFSC has issued anti-money laundering Guidance Notes that the courts take into account when considering whether or not an offense has been committed under the Money Laundering Order. The reporting of suspicious transactions is mandatory under the narcotics trafficking, terrorism, and anti-money laundering laws.

After consultation with the financial services industry, the JFSC issued a position paper (jointly issued in Guernsey and the Isle of Man) that set out a number of proposals for further tightening the essential due diligence requirements that financial institutions should meet regarding their customers. The position paper states the JFSC's intention to insist, inter alia, on affirming the primary responsibility of all financial institutions to verify the identity of their customers, regardless of the action of intermediaries. The paper also states an intention to require a progressive program to obtain verification documentation for customer relationships established before the Proceeds of Crime (Jersey) Law came into force in 1999. Each year working groups review specific portions of these principles and draft Anti-Money Laundering Guidance Notes to incorporate changes.

Approximately 30,000 Jersey companies are registered with the Registrar of Companies, who is the Director General of the JFSC. In addition to public filing requirements relating to shareholders, the JFSC requires details of the ultimate individual beneficial owner of each Jersey-registered company to be filed, in confidence, with the Commission. That information is available, under appropriate circumstances and in accordance with the law, to U.S. and other investigators.

In addition, a number of companies that are registered in other jurisdictions are administered in Jersey. Some companies, known as "exempt companies," do not have to pay Jersey income tax and are only available to nonresidents. Jersey does not provide "offshore" licenses. All regulated individuals are equally entitled to sell their services to residents and nonresidents alike. All financial businesses must have a "real presence" in Jersey, and management must be in Jersey.

Jersey has established a financial intelligence unit known as the Joint Financial Crime Unit (JFCU). This unit is responsible for receiving, investigating, and disseminating suspicious transaction reports (STRs). The unit includes Jersey Police and Customs officers, as well as a financial crime analyst. In 2001 the JFCU received 972 suspicious activity reports, 1,612 reports in 2002, and 1,272 in 2003. The JFCU is a member of the Egmont Group.

Jersey has extensive powers to cooperate with other law enforcement and regulatory agencies and regularly does so. The JFSC is also able to cooperate with regulatory authorities, for example, to ensure that financial institutions meet anti-money laundering obligations. The JFSC reached agreements on information exchange with securities regulators in Germany (July 2001), France (November 2001), and the United States (May 2002). The 1988 Agreement Concerning the Investigation of Drug Trafficking Offenses and the Seizure and Forfeiture of Proceeds and Instrumentalities of Drug Trafficking, as amended in 1994, was extended to Jersey in 1996. Jersey authorities have also put in place sanction orders freezing accounts of individuals connected with terrorist activity.

Jersey has established an anti-money laundering program, that in some instances, such as the regulation of trust company businesses and the requirement for companies to file beneficial ownership with the JFSC, go beyond what international standards require in order to directly address Jersey's particular vulnerabilities to money laundering. Jersey should establish reporting requirements for the cross-border transportation of currency and monetary instruments. Jersey should continue to demonstrate its commitment to fighting financial crime by enhancing its anti-money laundering/antiterrorist financing regime in areas of vulnerability.